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EUROPEAN COURT OF HUMAN RIGHTS

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ARTICLE 2

USE OF FORCE
Killings in Chechnya by agents of the Russian State, followed by inadequate criminal investigation: *violation*.

ESTAMIROV and Others - Russia (N° 60272/00)
Judgment 12.10.2006 [Section I]

Facts: The seven applicants are Russian nationals and are all related. Until 1999 they were residents of Grozny, Chechnya. They claimed that in February 2000 five members of their family had been killed by agents of the Russian State and that no effective investigation into their deaths had been carried out.

Law: Article 2 – *Alleged inadequacy of the investigation*: The investigation had been plagued by inexplicable delays, although it was crucial in cases of deaths in contentious situations for the investigation to be prompt. Those unexplained delays not only demonstrated the authorities' failure to act on their own initiative but also constituted a breach of the obligation to exercise exemplary diligence and promptness. Moreover, a number of crucial steps had never been taken: none of the applicants, apart from one, had been questioned; they had not been granted victim status in the proceedings and had not been informed about the progress of the investigation; the investigation had not ensured sufficient public accountability and had not safeguarded the interests of the next-of-kin; the investigation had been adjourned and resumed a number of times and the supervising prosecutors repeatedly had pointed out deficiencies in the proceedings and had ordered measures to remedy them, without those instructions having been complied with. In sum, the authorities had failed to carry out an effective criminal investigation into the circumstances surrounding the deaths of the applicants' relatives.
Conclusion: violation (unanimously).

Article 2 – *Failure to protect the right to life*: The deaths of the applicant's relatives could be attributed to the Russian State and no justification had been shown for the use of lethal force by its agents.
Conclusion: violation (unanimously).

Article 13 – The criminal investigation into the killings had been ineffective and any other remedy that might have existed had been undermined.
Conclusion: violation (unanimously).

Article 41 – Awards for non-pecuniary damage ranging from EUR 2 to 70,000.

For further details, see Press Release no. 581.

ARTICLE 3

INHUMAN TREATMENT
Detention of a five-year-old child without her family in a centre for adults, followed by her deportation: *violation*.

MUBILANZILA MAYEKA and KANIKI MITUNGA - Belgium (N° 13178/03)
Judgment 12.10.2006 [Section I]

Facts: The Belgian authorities apprehended a five-year-old child at Brussels airport who was travelling from the Democratic Republic of Congo with her uncle without the necessary travel papers. The purpose of the journey was for the child, whose father had disappeared, to rejoin her mother who had obtained refugee status in Canada. The child was detained in a transit centre for adults, and a decision was taken

refusing her entry into Belgium and ordering her removal. The judge held that the child's detention was incompatible with the Convention on the Rights of the Child and ordered her immediate release. The following day the child was deported to the Democratic Republic of Congo. She was accompanied to the airport by a social worker and looked after in the plane by an in-flight attendant. No members of her family were waiting for her when she arrived.

Law: Article 3 – *The child's detention*: The child, unaccompanied by her parents, had been detained for two months in a centre intended for adults, with no counselling or educational assistance from a qualified person specially mandated for that purpose. The care provided to her had been insufficient to meet her needs. Owing to her very young age, the fact that she was an illegal alien in a foreign land and the fact that she was unaccompanied by her family, the child was in an extremely vulnerable situation. However, no specific legal framework existed governing the situation of unaccompanied alien minors. Although the authorities had been placed in a position to prevent or remedy the situation, they had failed to take adequate measures to discharge their obligation to take care of the child. Her detention demonstrated a lack of humanity and amounted to inhuman treatment.
Conclusion: – violation in respect of the child (unanimously).

Article 3 – *Distress and anxiety of the mother as a result of her daughter's detention*: The only action taken by the Belgian authorities had been to inform the mother that her daughter had been detained and to provide her with a telephone number where she could be reached.
Conclusion: violation in respect of the mother on account of her daughter's detention (unanimously).

Article 3 – *The child's deportation*: The authorities had not taken steps to ensure that the child would be properly looked after before and during the flight or on her arrival, or had regard to the real situation she was likely to encounter on her return. Her removal amounted to inhuman treatment; in deporting her, the State had violated its positive obligation to take the requisite measures and precautions. The authorities had not troubled to advise the mother of her daughter's deportation and she had learned of it only after the event.
Conclusion: violation in respect of both applicants (unanimously).

Article 8 – Both applicants had been subjected to disproportionate interference with their right to respect for their family life as a result of the child's detention and the circumstances of her deportation.
Conclusion: violation in respect of both applicants (unanimously).

Article 5(1) – The child had been detained under a law which contained no provisions specific to minors, in a centre intended for adults and thus unsuited to her extremely vulnerable situation. Her right to liberty had not been adequately protected.
Conclusion: violation in respect of the child (unanimously).

Article 5(4) – The child had been deported without regard to the fact that she had lodged an application for release, which had been granted. The application had therefore been rendered ineffective.
Conclusion: violation in respect of the child (unanimously).

Article 41 – The Court awarded the applicants EUR 35,000 for non-pecuniary damage.

For further details see Press Release no. 582.

INHUMAN TREATMENT
Anxiety of a mother whose child was detained abroad and subsequently deported: *violation*.

MUBILANZILA MAYEKA and KANIKI MITUNGA - Belgium (N° 13178/03)
Judgment 12.10.2006 [Section I]

(See above).

INHUMAN TREATMENT
Minimum sentences imposed and suspended for persons found guilty of ill-treating a minor: *violation*.

OKKALI - Turkey (N° 52067/99)
Judgment 17.10.2006 [Section II]

Facts: The applicant, a twelve-year-old boy, was subjected to ill-treatment at police headquarters. The criminal complaint which he lodged resulted in minimal, suspended, sentences for the police officers concerned. The applicant's action for damages was declared inadmissible as time-barred.

Law: As a minor, the applicant should have enjoyed enhanced protection in the proceedings, but the authorities had not taken his particular vulnerability into account. In addition, the proceedings had resulted in impunity for the persons responsible for acts incompatible with the absolute prohibition laid down in Article 3. In applying and interpreting the domestic legislation, the judges had used their power of discretion to lessen the consequences of an extremely serious unlawful act rather than to show that such acts could in no way be tolerated. The criminal-law system, as applied in the applicant's case, could have no dissuasive effect capable of ensuring the effective prevention of unlawful acts of that kind. The criminal proceedings, in view of their outcome, had failed to provide appropriate redress for an infringement of the principle enshrined in Article 3.
Conclusion: violation (unanimously).

Article 41 – The Court awarded EUR 19,000 for non-pecuniary damage and a specified sum for costs and expenses.

For further details see Press Release no. 597.

INHUMAN OR DEGRADING TREATMENT
Lack of qualified and timely medical assistance to a HIV-positive detainee suffering from epilepsy: *violation*.

KHUDOBIN - Russia (N° 59696/00)
Judgment 26.10.2006 [Section III]

(See Article 6(1) [criminal] "Fair hearing" below).

EXTRADITION
Conditions in which a five-year-old child was deported without her parents: *violation*.

MUBILANZILA MAYEKA and KANIKI MITUNGA - Belgium (N° 13178/03)
Judgment 12.10.2006 [Section I]

(See above).

ARTICLE 5

Article 5(1)

DEPRIVATION OF LIBERTY
Detention of a five-year-old foreign national without her family in a centre for adult illegal immigrants: *violation*.

MUBILANZILA MAYEKA and KANIKI MITUNGA - Belgium (N° 13178/03)
Judgment 12.10.2006 [Section I]

(See Article 3 above).

Article 5(3)

RELEASE PENDING TRIAL
Impossibility to apply for bail before the court examining the lawfulness of the arrest or detention of persons charged with scheduled offences: *no violation*.

McKAY - United Kingdom (N° 543/03)
Judgment 3.10.2006 [GC]

Facts: On 6 January 2001, the applicant was arrested. The next day he was charged with robbery. On 8 January 2001 he appeared before the magistrates' court and applied for his release on bail. The police officer had no objection to bail. The sitting magistrate refused the application on the grounds that, under the Terrorism Act 2000 and the Northern Ireland (Emergency Provisions) Act 1996, he had no power to order release of persons charged with scheduled offences. The applicant applied unsuccessfully for judicial review seeking a declaration that the legislation in question was incompatible with Article 5(3). He also applied for bail to the High Court and was released on 9 January 2001.

Law: The magistrate dealing with the applicant's case had the competence to examine the lawfulness of his arrest and detention and whether there were reasonable grounds for suspecting him of having committed the crime of which he had been accused. The magistrate also had the power to order the applicant's release if those requirements were not complied with. That provided satisfactory guarantees against abuse of power by the authorities and ensured compliance with the requirements of Article 5(3) in that there had been prompt and automatic judicial control before a duly empowered judicial officer. The question of release pending trial was a distinct and separate matter which logically only became relevant after the establishment of the existence of a basis for the applicant's detention both under domestic law and under the Convention. No element of possible abuse or arbitrariness arose from the fact that his release had been ordered by another tribunal or judge or from the fact that the examination had been dependent on his application to the High Court. The applicant's lawyer had lodged such an application without any hindrance or difficulty; it was not apparent, nor did it fall to be decided in the applicant's case, that the system in operation would prevent the weak or vulnerable from making use of that possibility. While it was true that the police had had no objection to bail and that, if the magistrate had had the power to release on bail, the applicant would have been released one day earlier, the Court nonetheless considered that the procedure in the applicant's case had been conducted with due expedition, leading to his release some three days after his arrest.
Conclusion: no violation (sixteen votes to one).

LENGTH OF PRE-TRIAL DETENTION
Length of detention on remand (five years and six months) in the context of international terrorism: *no violation*.

CHRAIDI - Germany (N° 65655/01)
Judgment 26.10.2006 [Section V]

Facts: The applicant is a stateless person residing in Lebanon. In 1990, an arrest warrant was issued against the applicant, accused of having prepared, with others, the bomb attack of a discotheque in Berlin in 1986 in order to kill members of the American armed forces. During this attack three persons had been killed and 104 persons had been seriously injured. In 1996 the applicant was extradited to Germany from Lebanon and held in detention. While rejecting the applicant's repeated requests for release, the German courts found that his further detention had remained proportionate, having regard to the persistence of reasonable suspicions against him, the character and seriousness of the offences and the particular public interest in the prosecution of these offences. Moreover, there had still been a danger of the applicant's absconding in view of the impending lifelong prison sentence and his lack of a fixed dwelling or social bonds in Germany. Therefore, the objective of the detention on remand could accordingly not be accomplished by alternative, less radical, preventive measures. From the beginning of the trial, the court held 281 hearings with an average of two hearings per week and having heard 169 witnesses. The hearings, which had an average duration of five hours each, had been regularly attended by the five accused, their 15 lawyers, 106 joint plaintiffs, their 29 lawyers and three interpreters. In November 2001 the applicant was convicted of aiding and abetting murder, attempted murder and causing an explosion. The trial court took into account that the applicant's detention on remand and the proceedings had lasted unusually long and ordered that this period be deducted from his prison sentence at a specific ratio.

Law: The domestic court's statement concerning the unusual length of the applicant's detention had not deprived the latter of his status of victim. The present case had concerned a particularly complex investigation and trial into large-scale offences which had been committed in the context of international terrorism. Having been extradited from Lebanon in 1996, the sole reason for the applicant's presence in Germany had been to stand trial for these offences. States combating terrorism may be faced with extraordinary difficulties. Bearing those in mind, the Court accepted the reasons given by the domestic courts for the applicant's continued detention and took the view that the competent judicial authorities could not be said to have displayed a lack of special diligence in handling his case. In these exceptional circumstances, the length of his detention could be regarded as reasonable.
Conclusion: no violation (unanimously).

ARTICLE 6

Article 6(1) [civil]

APPLICABILITY
CIVIL RIGHTS AND OBLIGATIONS
Dispute over the right to continue specialist medical training begun in a different country: *Article 6 applicable*.

KÖK - Turkey (N° 1855/02)
Judgment 19.10.2006 [Section III]

Facts: The applicant had completed her general medical studies and part of her specialist training in Bulgaria. In Turkey, her university medical degree was recognised as equivalent and she worked in that country as a doctor; however, the length of the period of specialist training she had undergone in Bulgaria was not recognised, as it did not satisfy the requirements.

Law: Article 6(1) *Applicability* – The applicant had been claiming the right to continue the medical specialisation she had begun outside the country in order to practise as a specialist in Turkey. She had further sought the setting-aside of the authorities' decision refusing her request for recognition. Article 6(1) was applicable.

Article 2 of Protocol No. 1 – The refusal of the authorities to recognise the length of the period of specialist training which the applicant had undergone in Bulgaria did not amount in the instant case to a restriction of her right to education.
Conclusion: no violation (unanimously).

For further details see Press Release no. 615.

APPLICABILITY
CIVIL RIGHTS AND OBLIGATIONS
No established rights at stake in proceedings for damages due to a reservist's suicide and the failure to exempt a prospective conscript from military service: *inadmissible*.

KUNKOVA and KUNKOV - Russia (N° 74690/01)
Decision 12.10.2006 [Section I]

In 1984 the first applicant's husband, Mr V. Kunkov, was enrolled in reservist training, although he had two minor children and his wife was pregnant. Later that year he was found hanged. In 1998 the second applicant (the first applicant's son) was found fit for military service but was permitted to postpone his service on several occasions on account of his studies. The applicants instituted proceedings against the draft board and the Ministry of Finance, claiming compensation for the non-pecuniary damage caused by Mr V. Kunkov's death. They also claimed compensation for the non-pecuniary damage caused by the draft board's failure to exempt the second applicant from military service, which allegedly had impeded him from finding employment, continuing his studies and starting a family. The applicants argued that he should have been exempted from service because his father had died during reservist training. The district court dismissed their action, finding that the first claim had no basis in domestic law. The court further noted that the Law on Military Service provided for exemption from military service in the event of a parent's death in the course of performing military duties, whereas the applicant's father had committed suicide. Since the applicants had failed to correct certain inaccuracies in their subsequent appeal, it was returned without examination. Before the European Court they complained that they had been denied a fair hearing and, in particular, that the court had not postponed one hearing, that their representative had not been summoned to another hearing and that their appeal had been returned without examination.

The Court noted that the applicants' first claim at domestic level had concerned compensation for the non-pecuniary damage caused by Mr V. Kunkov's death during reservist training. In this regard the Court took note of the district court's finding that the claim had no basis in domestic law, since the legislation in force at the material time did not provide for compensation for non-pecuniary damage and the subsequent legislation had no retrospective effect. Therefore, no civil right recognised in domestic law had been at issue and Article 6 did not apply to those proceedings. – The applicants' second claim essentially had concerned the authorities' refusal to exempt the second applicant from military service. However, the obligation to serve in the military and, consequently, the right to be exempted from military service, is clearly of a public-law nature and as such falls outside the scope of Article 6. As to whether the dispute had been "genuine and serious", the Court noted that the second applicant had claimed damages for the authorities' failure to exempt him from military service, although it had not even been established that he had been entitled to such exemption. The domestic court had found no direct link between the alleged failure and the alleged damage which, furthermore, had remained unsubstantiated. Accordingly, there was no established right that the domestic authorities allegedly had failed to respect, no direct link between the alleged failure and the alleged damage, and, moreover, no evidence of any damage. Those circumstances

provided a sufficiently clear indication that the dispute in question had not been genuine and serious. Accordingly, Article 6(1) was not applicable: *incompatible ratione materiae*.

APPLICABILITY
Shareholder of a limited-liability company being wound up objects to measures relating directly and exclusively to the company's capital: *Article 6 not applicable*.

POKIS - Latvia (N° 528/02)
Decision 5.10.2006 [Section III]

The applicant held shares in a limited-liability company. The company was placed under judicial administration and a liquidator was appointed. Disagreeing with some of the steps taken in the liquidation proceedings, the applicant brought a court action challenging the decisions taken by the meeting of creditors and the actions of the liquidator. In his action he criticised the decision to increase the company's share capital, certain shortcomings and irregularities in the recovery plan adopted by the meeting of creditors and the competence of the liquidator. The action was declared inadmissible.

Inadmissible under Article 6(1) – *Applicability*: Latvian law did not confer on ordinary shareholders the capacity to act in the context of liquidation proceedings. The impugned proceedings had related solely to the company as a legal entity and not to the applicant. Although the company had been placed under judicial administration, it had not thereby ceased to exist as a legal entity, and it had continued to have its own separate assets. The measures criticised by the applicant had related directly to the company's capital, that is, the capital of a separate legal entity, and not to his own assets. While the liquidation measures had affected the financial interests of the applicant as a member of the company, the effects on him were too indirect and remote to be regarded as "directly decisive" for his individual property rights: *incompatible ratione materiae*.

Inadmissible under Article 1 of Protocol No. 1: *Victim status*: Shares in limited-liability companies amounted to "possessions". Shareholders complaining of measures taken in winding up a company, which was a separate legal entity, or of another infringement of that entity's rights, could not claim to be "victims" of a violation of their individual rights under Article 1 of Protocol No. 1.

ACCESS TO COURT
Statutory prevention of the enforcement of a final judgment in the applicant's favour: *violation*.

JELIČIĆ - Bosnia and Herzegovina (N° 41183/02)
Judgment 31.10.2006 [Section IV]

Facts: In 1983 the applicant placed a sum of money in German marks in two foreign-currency savings accounts at a bank in the then Socialist Federal Republic of Yugoslavia ("SFRY"). Foreign-currency savings deposited prior to the dissolution of SFRY ("old" foreign-currency savings) fall under a special legal regime in Bosnia and Herzegovina. The applicant was unsuccessful in trying to withdraw her savings and in 1998 she obtained a judgment ordering her bank to release all sums on her accounts together with default interest and legal costs. Since that judgment was not executed, the Human Rights Chamber for Bosnia and Herzegovina found, in 2000, that Republika Srpska (the respondent Entity within the State) had violated the applicant's rights under the Convention and ordered this Entity to enforce the judgment without further delay. The judgment was not enforced. In 2002 legislation transformed the money in the applicant's foreign-currency accounts into a public debt attributable to the Republika Srpska. In 2006 the State of Bosnia and Herzegovina took over the debt by virtue of further legislation. These and other laws have prevented enforcement of judgments ordering the release of "old" foreign-currency savings.

Law: Article 6(1) – The 1998 judgment, although final and enforceable, had not been executed. The impugned situation had lasted more than four years since the ratification of the Convention by Bosnia and Herzegovina and the judgment debt was the liability of the State. The situation of the applicant was significantly different from that of the majority of "old" foreign-currency savers who had not obtained any judgment ordering the release of their funds. The payment of the award made by the domestic courts in the applicant's case, even with the accumulated default interest, would not be a significant burden for the State let alone result in the collapse of its economy as suggested by the Government. In any event, the applicant should not be prevented from benefiting from the success of the litigation on the ground of alleged financial difficulties experienced by the State. Further, the evidence was that judgments ordering the release of "old" foreign-currency savings were the exception rather than the norm. That had been corroborated by the case-law of the former Human Rights Chamber, the Human Rights Commission within the Constitutional Court and the Constitutional Court of Bosnia and Herzegovina. While a major part of "old" foreign-currency savings might have ceased to exist before or during the dissolution of the former SFRY and the disintegration of its banking and monetary systems, such circumstances fell to be invoked and examined prior to a final domestic determination of a case. Where the courts had finally determined an issue their ruling should not be called into question. In the circumstances of the applicant's case it had not been justified to delay so long the execution of a final and enforceable judgment, or to intervene in the execution of the judgment in the manner foreseen by the 2006 Act. Hence the essence of her right of access to court had been impaired.
Conclusion: violation (unanimously).

Article 1 of Protocol No. 1 – For the reasons detailed in the context of Article 6, the interference with the applicant's possessions had not been justified in the circumstances of her case.
Conclusion: violation (unanimously).

Article 41 – EUR 163,460 in respect of pecuniary damage and EUR 4,000 for non-pecuniary damage.

For further details, see Press Release no. 649.

ACCESS TO COURT
Compensation awarded by Constitutional Court significantly lower than amounts awarded by the European Court in similar cases: *violation*.

TOMAŠIĆ - Croatia (N° 21753/02)
Judgment 19.10.2006 [Section I]

Facts: Proceedings for damages which the applicant and his wife had initiated against the State were stayed under the 1996 Amendment to the Civil Obligations Act. In 2004 the Constitutional Court found violations of the applicant's rights to a hearing within a reasonable time and of access to a court. It ordered the first-instance court to give a decision in the applicant's case within a year and awarded him 4,400 Croatian kunas (some 600 euros) in compensation.

Law: The redress afforded to the applicant at domestic level had been manifestly unreasonable, amounting to some 15 % of what the European Court generally awards in similar Croatian cases. Accordingly, the applicant could still claim to be a victim of a breach of his right of access to a court. The Court had frequently found violations of that right in cases similar to the present one.
Conclusion: violation (unanimously).

Article 41 – EUR 1,200 for non-pecuniary damage.

ACCESS TO COURT
Temporary suspension of courts in Chechnya owing to a counter-terrorist operation: *admissible*.

KHAMIDOV - Russia (N° 72118/01)
Decision 23.10.2006 [Section V]

The applicant alleges that from 1999 to 2002 federal police units participating in a military operation in Chechnya temporarily occupied and damaged real property belonging to him and others. It took him 15 months to get access to a court to bring eviction proceedings as the functioning of the courts in Chechnya was suspended owing to a counter-terrorist operation. It took him a further 16 months to have a court order against the police enforced. His claim for compensation in respect of property damage to the property was rejected, the court having found that he had failed to prove the fact that the property had been occupied and damaged by the police. He complains under Article 8 of the Convention that the occupation of his property infringed his right to respect for his home and his private and family life. He further complains under Article 1 of Protocol No. 1 that his possessions were *de facto* expropriated by the federal police; that the length of the enforcement proceedings was excessive; and that even though the police had severely damaged his property he had been unable to obtain any compensation in this respect. The applicant also complains under Article 6 of the Convention, in particular that he had no access to a court between October 1999 and January 2001; that the enforcement proceedings had been too lengthy; and that the domestic courts made arbitrary findings in contradiction with the facts of the case. Lastly, the applicant complains under Article 13 that the domestic remedies were ineffective in his case.

Admissible under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention as well as under Articles 6 and 13 of the Convention (concerning the inability to file a claim in courts on the territory of Chechnya between October 1999 and January 2001, the enforcement delay and the alleged defects in the proceedings for damages).

ACCESS TO COURT
Refusal to recognise jurisdiction of courts in respect of a dispute concerning the right to use a religious building: *communicated*.

TICVANIUL MARE GREEK CATHOLIC PARISH - Romania [Section III]

(See Article 9 below).

Article 6(1) [criminal]

FAIR HEARING
Participation of defendant in hearings by video link: *no violation*.

MARCELLO VIOLA - Italy (N° 45106/04)
Judgment 5.10.2006 [Section III]

Facts: The applicant was sentenced to life imprisonment for serious Mafia-related offences. At the appeal stage, he was not brought to the hearing room from the prison to attend the hearings, as he was subject at the time to a restricted prison regime limiting his contacts with the outside world. Instead, he followed the hearings by means of an audiovisual link to the hearing room, in accordance with the relevant legislation.

Law: Article 6 – The applicant's participation in the hearings by video link had pursued legitimate aims under the Convention, namely the protection of public order, the prevention of crime, protection of the rights to life, freedom and safety of witnesses and victims of offences, and compliance with the "reasonable time" requirement in judicial proceedings. The arrangements for the conduct of the appeal

hearings had respected the rights of the defence in the instant case. The applicant had been linked to the hearing room by videoconference, allowing him to see the persons present and hear what was being said. He had been seen and heard by the other parties, the judge and the witnesses. He had been able to make statements to the court and his right to communicate with his lawyer out of earshot of others had not been violated.
Conclusion: no violation (unanimously).

Article 4 of Protocol No. 7 – The applicant had been tried in two successive sets of proceedings for illegal possession of weapons. However, while the legal classification of the charges against him had been similar in the two sets of proceedings, the offences in question had related to two quite distinct periods.
Conclusion: no violation (unanimously).

For further details see Press Release no. 561.

FAIR HEARING
Use of evidence obtained in breach of Article 3 and in the absence of a lawyer: *violation*.

GÖÇMEN - Turkey (N° 72000/01)
Judgment 17.10.2006 [Section II]

Facts: In late December 1992 the applicant was arrested and taken into police custody. While in custody he admitted being a member of the Workers' Party of Kurdistan and confessed to having been involved in illegal activities. In accordance with the legislation in force at the relevant time, he was not allowed access to a lawyer while in police custody. In January 1993, after being placed in detention pending trial, the applicant was examined by the prison doctor. According to the report drawn up following the examination, the applicant's body bore numerous signs of violence (reduced movement and pain in various parts of the body and a large number of bruises). During the proceedings the applicant stated that he had been subjected to ill-treatment while in police custody in an attempt to extract a confession from him. In 1999 a national security court found the applicant guilty of forming armed gangs capable of committing offences against the State and sentenced him to 18 years and nine months' imprisonment. The court based its decision in particular on the statements by the applicant's co-defendants, the expert reports and search protocols and on documents and weapons seized at the applicant's home. It also took into consideration, as evidence against the applicant, the statements he had made while in police custody.

Law: The Court considered it regrettable that, before examining the merits of the case, the national security court had not ruled on the weight to be attached to the confession obtained from the applicant in police custody, which had been challenged before the court. A preliminary examination of that kind would have enabled the domestic courts to declare unacceptable the use of unlawful methods to obtain incriminating evidence. It was not necessary to ascertain whether the applicant's conviction had been based to a decisive extent on the impugned statements. The Court took the view that the procedural guarantees offered in the present case had not prevented the use of evidence obtained under conditions which amounted to a violation of Article 3, in the absence of a lawyer and in breach of the privilege against self-incrimination.
Conclusion: violation (unanimously).

Article 41 – EUR 20,000 for pecuniary and non-pecuniary damage.

For further details see Press Release no. 598.

FAIR HEARING
Conviction of offence prompted by the police: *violation*.

KHUDOBIN - Russia (N° 59696/00)
Judgment 26.10.2006 [Section III]

Facts: In 1998 an undercover police informant called the applicant and asked him to buy her some drugs. The latter agreed and bought 0.05 grammes of heroin which he paid for with the money she gave him. On his return to the meeting point where he was to hand over the drug, he was apprehended by police officers. The next day he was charged with drug trafficking and detained on remand. His detention was further prolonged on several occasions, without any reasons given by the court. When the applicant was arrested he was suffering from several chronic diseases, including epilepsy, pancreatitis, viral hepatitis B and C, as well as various mental illnesses. He was also HIV-positive. During his detention he contracted several serious diseases including measles, bronchitis and acute pneumonia. He also had several epileptic fits. His request to undergo a thorough medical examination either in the detention facility or by an independent doctor was refused. The applicant was not present at the hearing on the merits. His lawyer asked for an adjournment because several witnesses, including the person who had sold heroin to the applicant, as well as the policemen involved in the operation, failed to appear. The court refused his request and found him guilty of selling heroin. It discontinued the criminal proceedings due to the findings of a psychiatric report which stated that he had committed the crime in a state of insanity. Instead he was ordered to undergo compulsory medical treatment During the trial the defence argued that, contrary to Russian law, the applicant had been incited to commit an offence by the police informant and that a confession had been extracted from the applicant by force while he was in a state of drug intoxication and without having benefited from legal advice.

Law: Article 3 – While in detention, the applicant had epileptic seizures but did not receive qualified and/or timely medical assistance. As to his mental state, he must have known that he risked at any moment a medical emergency with very serious results and that no qualified medical assistance was available. Throughout his detention the authorities failed to monitor his chronic diseases and provide adequate medicinal treatment, which aggravated his health condition and increased his vulnerability to other illnesses, namely repetitive pneumonias. He was also denied the possibility to receive appropriate medical assistance from other sources, as well as to undergo an independent medical examination of his state of health. Moreover, he was HIV-positive and suffered from a serious mental disorder. That increased the risks associated with any illness he suffered during his detention and intensified his strong feeling of insecurity on that account. In sum, this situation amounted to degrading treatment.
Conclusion: violation (unanimously).

Article 6(1) – The applicant had not had a criminal record and the only allegations of his involvement in drug dealing had come from the police informant. Furthermore, he had made no financial gain from the deal. It therefore appeared to the Court that the police operation had not targeted the applicant personally as a well-known drug dealer, but rather any person who would agree to procure heroin for the informant. A clear and foreseeable procedure for authorising investigative measures, as well as their proper supervision, should have been put in place in order to ensure the authorities' good faith and compliance with proper law-enforcement objectives. However, the police operation had been authorised by a simple administrative decision of the body which later carried out the operation, the text of which contained very little information as to the reasons for and purposes of the planned "test buy". Furthermore, the operation had not been subjected to judicial review or any other independent supervision. In the absence of a comprehensive system of checks accompanying the operation, the role of the subsequent control by the trial court had been crucial. However, the policemen involved in the "test buy" had never been questioned by the court, although the defence had sought to have them heard. The person who had sold the drug to the applicant had not been questioned either. Finally, the Court was particularly struck by the fact that the applicant himself had not been heard on the subject of incitement as he had also been absent from the hearing on the merits. In sum, although the domestic court had had reason to suspect that there was an entrapment, it did not analyse relevant factual and legal elements which would have helped it to distinguish the entrapment from a legitimate form of investigative activity. Moreover, the domestic law

should not tolerate the use of evidence obtained as a result of incitement by State agents. It followed that the proceedings, which had led to the conviction of the applicant, had not been "fair".
Conclusion: violation (unanimously).

Article 41 – EUR 12,000 for non-pecuniary damage.

For further details, see Press Release no. 633.

PUBLIC HEARING
Hearings in trial and appeal courts held in private under summary procedure requested by the defendant: *no violation*.

HERMI - Italy (N° 18114/02)
Judgment 18.10.2006 [GC]

Facts: The proceedings against the applicant for drug trafficking were conducted, at his request, under the summary procedure. He was convicted following adversarial hearings held in private. In the proceedings at first instance, he participated in the hearings with his lawyers. He was given notice of the appeal hearing while in prison following his conviction. He did not attend the appeal hearing and his lawyer objected to the proceedings being continued in his absence.

Law: The applicant, who had been assisted by two lawyers of his own choosing, had been in a position to understand the implications of his request for adoption of the summary procedure, in particular the fact that the hearings before the trial and appeal courts would be held in private. Given that the summary procedure was aimed at speeding up criminal proceedings, the fact that hearings were held in private was not contrary to the Convention.
The applicant had not attended the appeal hearing. However, his presence could not in any way have influenced the characterisation of the offence of which he had been convicted, as the court of appeal had no power to increase his sentence and the hearing had been confined to hearing the arguments of the parties, without any evidence being produced or witnesses examined (in accordance with the summary procedure). While, admittedly, the notice of the appeal hearing had not indicated that the applicant had to make a request in advance in order to be brought to the hearing room, this would have been known to the lawyers chosen by the applicant. The applicant, however, had not complained of a lack of diligence on their part, nor had their shortcomings been manifest. In addition to the fact that the request to attend the appeal hearing had been made at a late stage and by the applicant's lawyer alone, there had been further indications that the applicant had not wished to attend. The authorities had been entitled to conclude that the applicant had implicitly, but nonetheless unequivocally, waived his right to participate in the appeal hearing.
Conclusion: no violation (by twelve votes to five).

For further details see Press Release no. 609.

ORAL HEARING
Defendant summoned to the appeal hearing but not appearing regarded by the authorities as having waived his right to appear: *no violation*.

HERMI - Italy (N° 18114/02)
Judgment 18.10.2006 [GC]

(See above).

EQUALITY OF ARMS
Failure to communicate documents from the Defence Ministry's case-file which had formed the basis for a judgment upholding a civil servant's dismissal from the army: *violation*.

AKSOY (EROĞLU) - Turkey (N° 59741/00)
Judgment 31.10.2006 [Section IV]

Facts: The applicant began working as nurses for the army, a post that carried civil servant status. In April 1999, following a disciplinary investigation, the Senior Disciplinary Board of the Ministry of National Defence decided to dismiss the applicant, as a sympathiser of an illegal organisation, for creating disorder in their establishment by conducting ideological and political activities. She lodged an appeal with the Supreme Military Administrative Court. When filing its submissions, the Ministry of Defence sent the case file concerning the administrative investigation to that court in a separate envelope, in accordance with the relevant law; the applicant did not receive a copy. In 2000 the Supreme Military Administrative Court dismissed the applicant's appeal on the basis of information and documents submitted by the Ministry of Defence in an envelope marked "secret" and the statements obtained during the administrative investigations. She unsuccessfully challenged the refusal to disclose the investigation file.

Law: The disputed decisions had been taken on the sole basis of the investigation files, which had been classified as "secret", and those files had therefore been of crucial importance for the outcome of the proceedings. Bearing in mind what had been at stake in the proceedings and the nature of the documents and information contained in the investigation file, the impossibility for the applicant to respond to them prior to delivery of judgment by the relevant Supreme Court had violated her right to a fair trial.
Conclusion: violation (unanimously).

Article 41 – EUR 6,500 for non-pecuniary damage.

N.B.: The applicability of Article 6(1) was confirmed in the Court's decision on admissibility of 3 November 2005. See also the judgments of the same day in *Güner Çorum v. Turkey* (no. 59739/00) and *Kahraman v. Turkey* (no. 60366/00).

ARTICLE 8

PRIVATE LIFE
Reproduction in a divorce decree of extract from a personal medical document: *violation*.

L.L. - France (N° 7508/02)
Judgment 10.10.2006 [Section II]

Facts: In proceedings for the applicant's divorce, the judge referred to a confidential medical document, namely the correspondence between the applicant's doctor and a specialist, containing a report on an operation performed on the applicant. The appeal judge quoted passages from the report in his decision. The divorce was granted on the grounds of fault by the applicant. The applicant requested legal aid with a view to appealing on points of law; when his request was refused, he did not pursue the appeal.

Law: The applicant's request for legal aid had been refused on account of the absence of serious grounds for appealing against the impugned decision. The Court found that the applicant had been justified in not pursuing the case before the Court of Cassation following that refusal: *preliminary objection (non-exhaustion) dismissed*.

Respect for the applicant's private life (reproduction of the extract from the medical document): The proceedings between the parties to a divorce were not public and the decision binding on third parties contained only the operative provisions; however, any one could obtain a copy of the grounds for the

decision without having to demonstrate that they had an interest. The medical document had been used by the judge only on a secondary basis and he could have reached the same conclusion without it. The interference in the applicant's private life had not been justified in view of the fundamental importance of protecting personal data.
Conclusion: violation (unanimously).

Article 41 – Non-pecuniary damage: finding of a violation sufficient.

For further details see Press Release no. 574.

PRIVATE LIFE
Impossibility to challenge in court a judicial declaration of paternity: *violation*.

PAULIK - Slovakia (N° 10699/05)
Judgment 10.10.2006 [Section IV]

Facts: In 2004 the applicant sought to bring proceedings to challenge a declaration of paternity made in 1970. He was in possession of new evidence, in the form of a DNA report, which proved that he was not the father. The Prosecutor General informed the applicant that since his paternity had already been decided on by a court with final effect, the prosecutors had no power to have the matter reviewed in court again. The applicant then lodged an unsuccessful complaint with the Constitutional Court.

Law: Article 8 – The Court noted that the law did not provide the applicant with any possibility of challenging the judicial declaration of his paternity. Although the Court accepted that the law needed to ensure legal certainty and security of family relationships and protect the interests of children, his daughter was now almost 40 years old, had her own family and was not dependent on the applicant. The general interest in protecting her rights at that stage, therefore, had lost much of its importance. Furthermore, she had initiated the DNA test herself and had had no objection to the applicant's disclaiming paternity. It therefore appeared that the lack of a procedure for bringing the legal position into line with the biological reality flew in the face of the wishes of those concerned and did not in fact benefit anyone. The Court therefore concluded that there had been a failure in the domestic legal system to secure to the applicant respect for his private life.
Conclusion: violation (unanimously).

Article 14 in conjunction with Article 8 – The Court noted that parents in cases where paternity was presumed, rather than determined in a final judicial decision, were able to take legal steps to contest the paternity but that the law made no allowance for the specific circumstances of the applicant's case, such as the age, personal situation and attitude of his daughter. Therefore, there was no reasonable relationship of proportionality between the aim sought by the legislation and the absolute means employed.
Conclusion: violation (unanimously).

Article 41 – The Court awarded the applicant EUR 5,000 in respect of non-pecuniary damage.

For further details, see Press Release no. 574.

PRIVATE LIFE
Unforeseeable harmful effects of surgery on account of psychosomatic tendencies not known prior to the operation: *inadmissible*.

TROCELLIER - France (N° 75725/01)
Decision 5.10.2006 [Section I]

In 1988 the applicant underwent a hysterectomy under general anaesthetic in a public hospital. When she came round, her left leg was paralysed. Whereas she was able-bodied before the operation, she can now move around only in a wheelchair or on crutches. The applicant brought proceedings before the administrative court, whose president appointed a medical expert. The latter produced a report in 1992 finding there had been no medical negligence or organisational error on the part of the hospital, but that the applicant had psychosomatic tendencies which had not been known before the operation and which had contributed to psychosomatically induced monoplegia following the operation.
The applicant lodged an application with the administrative court seeking to have the hospital in question held liable for the harmful effects of her hysterectomy and ordered to provide compensation for personal injury. The court rejected the application, finding that no causal link had been established between the operation and the paralysis complained of by the applicant. The applicant lodged an appeal with the administrative court of appeal, complaining in particular that the hospital had failed in its obligation to provide her with comprehensive information on the risks of the operation and had omitted to investigate beforehand whether she had psychosomatic tendencies. The administrative court of appeal dismissed her arguments on both points and upheld the judgment at first instance. The *Conseil d'Etat* dismissed the applicant's appeal on points of law. It found that the administrative court of appeal, in ruling that there was no direct causal link between the applicant's symptoms and her operation and that the conditions for finding the hospital liable, on the basis of either strict liability or liability for negligence, had therefore not been met, had not distorted the facts or the conclusions of the expert report and had given sufficient reasons for its judgment.

Inadmissible under Article 8 – While it was true that the applicant had not relied on Article 8 before the French courts, the latter had nonetheless been called upon to examine whether the hospital authorities were liable in respect of the interference with the applicant's physical integrity and the alleged inadequacy of the information given to her before the operation. Both these issues fell within the scope of Article 8. Accordingly, respect for the rights guaranteed by Article 8 had been at issue – if only implicitly – before the domestic courts; the legal arguments advanced by the applicant at that stage had included a complaint linked to those rights and the applicant had raised, at least in substance, the complaint she later raised before the Court. As the respondent State had therefore had the opportunity of providing redress for the violation alleged before the Court, its objection based on the failure to exhaust domestic remedies could not be upheld.
The principles in the Court's case-law concerning the right to life under Article 2 required Contracting Parties to set up an effective independent judicial system so that the cause of death of patients in the care of the medical profession, whether in the public or the private sector, could be determined, and to make regulations compelling both public and private hospitals to adopt appropriate measures for the protection of their patients' lives. Those principles were undoubtedly equally applicable in the same context to serious interference with a person's physical integrity falling within the scope of Article 8. In the instant case, on the first point, the applicant had had access to proceedings to establish whether the medical team which had performed the operation was liable and enabling her, if appropriate, to obtain compensation for personal injury. Both the medical expert appointed by the president of the administrative court and the domestic courts had found that the operation had proceeded normally, and had ruled out any fault or medical negligence. As to the second point, the Court had already stressed the importance of patient consent and the need for persons facing risks to their health to have access to information enabling them to assess those risks. It considered it reasonable to infer from this that Contracting States were obliged to introduce the necessary regulations requiring doctors to consider the foreseeable consequences of the planned procedure on their patients' physical integrity and to inform patients accordingly beforehand. As a corollary to this, if a foreseeable risk of this nature materialised without the patient having been duly informed in advance by doctors, and if, as in the instant case, the doctors worked in a public hospital, the

Contracting State concerned could be held directly responsible under Article 8 for the lack of information. In the instant case, French law as it stood at the material time already required doctors to provide patients with information; besides, the applicant had not claimed to have received no information prior to the operation. Furthermore, it appeared that paralysis as intense and lasting as that experienced by the applicant was not, as such, a foreseeable consequence of an operation of this kind. According to the expert, the applicant's problem was of a psychosomatic nature. There was no reason not to lend credence to the Government's argument that very little medical research had been conducted in the field of psychosomatic symptoms and that the data available were still based on hypothesis, making it difficult to require that they be included as a matter of principle in the information to be provided by doctors. In the specific case of the applicant, moreover, while the expert had noted a tendency in the patient towards such a reaction, he had stressed that this had not been known before the operation (a fact also accepted by the administrative court of appeal): *manifestly ill-founded*.

FAMILY LIFE
Taking into care of children from a large family on the sole ground that the family's housing was inadequate: *violation*.

WALLOVÁ and WALLA - Czech Republic (N° 23848/04)
Judgment 26.10.2006 [Section V]

Facts: The applicants and their children had been separated following court decisions ordering that the children be placed in residential care – first on a temporary basis in 2000 and then permanently in 2002 – on the ground that the applicants faced material difficulties making them unable to provide a suitable home for their five children. In 2003 the oldest child reached the age of majority. In April 2004 the two youngest were placed with a foster family. The care orders in respect of the other two children were annulled in February 2006 and they were able to resume living with their parents.

Law: The care order in respect of the applicants' children had been made solely because the large family had been inadequately housed at the time. Under the social welfare legislation, however, the national social welfare authorities had powers to monitor the applicants' living conditions and hygiene arrangements and to advise them what steps they could take to improve the situation themselves and find a solution to their housing problem. Separating the family completely on the sole grounds of their material difficulties had been an unduly drastic measure.
Conclusion: violation (unanimously).

Article 41 – EUR 10,000 for non-pecuniary damage.

For further details see Press Release no. 634.

FAMILY LIFE
Detention and deportation of five-year old child travelling alone to join her mother who had obtained refugee status in a different country: *violation (for the mother and child)*.

MUBILANZILA MAYEKA and KANIKI MITUNGA - Belgium (N° 13178/03)
Judgment 12.10.2006 [Section I]

(See Article 3 above).

FAMILY LIFE
Refusal to grant authority to execute a foreign judgment authorising the full adoption of a minor by a single woman: *admissible*.

WAGNER and J.M.W.L. - Luxembourg (N° 76240/01)
Decision 5.10.2006 [Section I]

A Peruvian court granted an order for the full adoption of a three-year-old child in favour of a single woman from Luxembourg. The child and its adoptive mother live together in Luxembourg but have been unable to have the court order declared enforceable. Their request to that effect was refused on the ground that Luxembourg law prohibited full adoption by single persons.
Admissible under Articles 6 (fair hearing) and 8 and Article 8 taken in conjunction with Article 14.

PRIVATE AND FAMILY LIFE
Withdrawal of residence permit and imposition of ten-year exclusion order, resulting in the applicant's separation from his partner and two children: *no violation*.

ÜNER - Netherlands (N° 46410/99)
Judgment 18.10.2006 [GC]

Facts: The applicant, a Turkish national, came to the Netherlands at the age of 12 with his mother and two brothers to join his father. In 1988 he obtained a permanent residence permit. In 1991 he started living with a Netherlands national and they had a son. The applicant moved out in 1992, but remained in close contact with both his partner and son. In 1994 the applicant was convicted of manslaughter and assault and sentenced to seven years' imprisonment. He had already been convicted for violent offences and for a breach of the peace. A further son was born to him in 1996. His partner and sons visited him in prison at least once a week. Both his sons have Netherlands nationality and have been recognised by him. Neither his partner nor his children speak Turkish. In 1997 the Deputy Minister of Justice withdrew the applicant's permanent residence permit and imposed a ten-year exclusion order on him in view of his conviction in 1994. He was deported to Turkey in 1998.

Law: In its Chamber judgment the Court had held, by six votes to one, that there had been no violation of Article 8. The Grand Chamber (hereinafter "the Court") did not doubt that the applicant had strong ties with the Netherlands. That said, the Court could not overlook the fact that the applicant had lived with his partner and first-born son for a relatively short period only and that he had never lived together with his second son. Moreover, the Court was not prepared to accept that he had spent so little time in Turkey that, at the time when he was returned to that country, he no longer had any social or cultural (including linguistic) ties with Turkish society. The offences of manslaughter and assault were of a very serious nature and given his previous convictions, he might be said to have displayed criminal propensities. When the exclusion order became final, the applicant's children had been very young still – six and one-and-a-half years old respectively – and therefore of an adaptable age. Given that they had Dutch nationality, they would – if they followed their father to Turkey – be able to return to the Netherlands regularly to visit other family members living there. In the particular circumstances of the case, the family's interests were outweighed by other considerations. Given the nature and the seriousness of the applicant's offences and bearing in mind that the exclusion order was limited to ten years, the Court could not find that the authorities had assigned too much weight to the State's own interests when deciding to impose that measure. Hence a fair balance had been struck in that the applicant's expulsion and exclusion from the Netherlands had been proportionate to the aims pursued and therefore necessary in a democratic society.
Conclusion: no violation (14 votes to three).

For further details, see Press Release no. 608.

ARTICLE 9

FREEDOM OF RELIGION
Bad-faith denial of re-registration, resulting in the applicant association's loss of legal status: *violation*.

MOSCOW BRANCH OF THE SALVATION ARMY - Russia (N° 72881/01)
Judgment 5.10.2006 [Section I]

(See Article 11 below).

FREEDOM OF RELIGION
Refusal to allow use of local church for worship: *communicated*.

TICVANIUL MARE GREEK CATHOLIC PARISH - Romania
[Section III]

The applicant is a local parish affiliated to the Greek Catholic (Uniate) Church, which was outlawed in 1948 and granted recognition again in 1990; its assets had been confiscated by the State in 1948. Since registration of the parish, religious services had been celebrated either in the Uniate church in the neighbouring municipality or in the homes of church members. The members of the Greek Catholic Church had access to the church building in their own village, which was used by the Orthodox Church, only for funeral services, and had to pay a tax for that purpose. In 1996 the applicant parish brought an action against the State seeking to recover possession of the church building and the land attached to it. The Orthodox parish in the same municipality also brought an action seeking recognition of its title to the same building. Both actions were dismissed on the ground that the courts did not have jurisdiction to settle disputes concerning property rights and rights of use in respect of religious buildings, which came within the sole jurisdiction of the joint committee made up of representatives from the two churches. According to the courts, conciliation within the joint committee set up by special decree was a required first step, with access to a court being permitted only if conciliation talks failed. In 1999 the court recognised the applicant's property rights in respect of several plots of land, including the land belonging to the Uniate church building in question, and ordered that the relevant entry be made in the land register. That judgment has not been enforced to date. In 2006 an Orthodox archbishop granted the applicant parish the right to use the church building in question.
Communicated under Article 6(1), Article 9, Article 1 of Protocol No. 1 taken alone and in conjunction with Article 14, and Article 13.

See also *Paroisse Greco-Catholique Sâmbăta Bihor v. Romania* (no. 48107/99, decision of 25 May 2004), CLR no. 64, p. 29.

ARTICLE 10

FREEDOM OF EXPRESSION
Conviction for defamation of Catholic Archbishop: *violation*.

KLEIN - Slovakia (N° 72208/01)
Judgment 31.10.2006 [Section IV]

Facts: A weekly magazine published an article written by the applicant in which he criticised a Slovakian Archbishop for his proposal to have withdrawn the distribution of a film on the grounds of its profanatory and blasphemous nature. The article contained strong imagery of sexual connotation. He also alluded to the Archbishop's alleged cooperation with the secret police of the former communist regime. Finally, he invited the members of the Catholic Church to leave their church if they considered themselves to be

decent and alleged that the representative of the church was an ogre. Upon the complaint of two associations, criminal proceedings were brought against the applicant and he was convicted of the offence of defamation of nation, race and belief and sentenced to a fine or to one month's imprisonment. The Archbishop, who first joined the proceedings as an aggrieved person, publicly pardoned the applicant and withdrew from the case. The courts concluded that the applicant had defamed the highest representative of the Roman Catholic Church in Slovakia and had disparaged a group of citizens for their Catholic faith.

Law: Contrary to the domestic courts' findings, the Court was not persuaded that the applicant had discredited and disparaged Catholics in his article, even if some of them might have been offended by the criticism of the Archbishop and by applicant's statement that he did not understand why decent Catholics did not leave that Church. The applicant's strongly-worded pejorative opinion had related exclusively to the Archbishop and had not unduly interfered with the right of believers to express and exercise their religion, nor had it denigrated the content of their religious faith. Moreover, the article, published in a weekly with rather limited circulation, was expected to be appreciated by only a few intellectuals. For those reasons, despite the innuendoes with oblique vulgar and sexual overtones in the article, and given the Archbishop's pardon to the applicant, the latter's conviction was inappropriate in the particular circumstances of the case.
Conclusion: violation (unanimously).

Article 41 – The Court made an award in respect of non-pecuniary damage (EUR 6,000).

For further details, see Press Release no. 648.

FREEDOM OF EXPRESSION
Political party prohibited from receiving funds from a foreign legal entity representing its main source of funding: *admissible*.

PARTI NATIONALISTE BASQUE - ORGANISATION RÉGIONALE D'IPARRALDE - France
(N° 71251/01)
Decision 5.10.2006 [Section I]

(See Article 11 below).

FREEDOM OF EXPRESSION
Conviction for publication of a book inciting readers to use drugs: *inadmissible*.

PALUSINSKI - Poland (N° 62414/00)
Decision 3.10.2006 [Section IV]

In 1994 the applicant published a book called "Narcotics – the guide". Having relied on the expert assessment of the contents of the book, the court convicted the applicant of inciting the readers to use drugs and sentenced him to a fifteen-month prison term suspended for two years, and a fine.
Even though the views expressed by the applicant were against the domestic anti-drug policy, the Court was not convinced by the Government's argument that the applicant sought to employ Article 10 as a basis for a right to engage in activities aimed at the destruction of the rights and freedoms set forth in the Convention within the meaning of Article 17. His conviction constituted a lawful interference with his right to freedom of expression and had been aimed at the protection of health and morals. The Court endorsed the domestic courts' findings that the book had offered very little, if any, information on the negative consequences of the use of drugs or on possible addictions. It had included instructions on how to obtain ingredients, how to prepare them, etc. It could not be said that the domestic courts' assessment of the facts had been unacceptable or that they had failed to apply the standards embodied in Article 10. Given that the applicant had stood to gain financially by publishing the book, a suspended prison sentence and a fine could not be regarded as disproportionate. In sum, the national courts could not be said to have

exceeded their wide margin of appreciation in the area of protection of public health and morals. The interference complained of could thus be regarded as "necessary in a democratic society": *manifestly ill-founded*.

ARTICLE 11

FREEDOM OF ASSOCIATION
Bad-faith denial of re-registration, resulting in the applicant's loss of legal status: *violation*.

MOSCOW BRANCH OF THE SALVATION ARMY - Russia (N° 72881/01)
Judgment 5.10.2006 [Section I]

Facts: In 1997 a new law was enacted (the Religions Act) which required that religious associations established before 1997 bring their articles of association in compliance with it and re-submit them for registration. Failure to do so within the time-limit entailed the termination of the organisation's status as a legal entity. In 1999 the applicant branch was denied re-registration. The Moscow Justice Department based its refusal on the fact that the number of founding members was insufficient and that there were no documents to prove that the members were lawfully resident in Russia. It also held that since it had the word "branch" in its name and the founders were foreign nationals, the organisation was ineligible for re-registration as a religious organisation under Russian law. The applicant challenged that refusal before a district court, where the Justice Department argued that the applicant branch should be denied registration as it was a "paramilitary organisation". The Justice Department also contended that it was not legitimate to use the word "army" in the name of a religious organisation. The District Court endorsed that argument and held, in particular, that the applicant's articles of association failed to describe adequately the organisation's faith and objectives. A city court upheld that judgment on appeal. The applicant lodged applications for supervisory review with the City Court and the Supreme Court which were refused. In the meantime the time-limit for re-registration of religious organisations had expired and in 2001 a district court had struck off the applicant from the State Register of Legal Entities.

Law: Articles 9 and 11 – The Court examined the two main arguments advanced by the domestic authorities for refusing the applicant's re-registration, namely its "foreign origin" and its internal structure and religious activities. The Court found no reasonable and objective justification for a difference in treatment of Russian and foreign nationals as regards their ability to exercise the right to freedom of religion through participation in the life of organised religious communities. Moreover, that ground for refusal had no legal foundation. As to the applicant's faith and objectives, it had been the national courts' task to elucidate the applicable legal requirements and give the applicant clear notice how to prepare the documents in order to be able to obtain re-registration. That had not been done. Accordingly, the courts could not rely on that ground for refusing registration. Moreover, it was not for the State to determine whether religious beliefs or the means used to express them were legitimate. Although the applicant branch was organised using ranks similar to those used in the army and their members wore uniforms, it could not seriously be maintained that the applicant branch advocated a violent change of constitutional foundations or undermined the integrity or security of the State. The domestic findings on this point were devoid of factual basis. Nor was there any evidence to show that the applicant had contravened any Russian law or pursued objectives other than those listed in its articles of association. The domestic courts' finding in this regard lacked evidentiary basis and was arbitrary. To sum up, in denying the applicant's re-registration the authorities had not acted in good faith and had neglected their duty of neutrality and impartiality vis-à-vis the applicant's religious community. Accordingly, there had been an unjustified interference with its right to freedom of religion and association.
Conclusion: violation of Article 11 read in the light of Article 9 (unanimously).

Article 41 – EUR 10,000 for non-pecuniary damage.

For further details, see Press Release no. 559.

FREEDOM OF ASSOCIATION
Political party prohibited from receiving funds from a foreign legal entity representing its main source of funding: *admissible*.

PARTI NATIONALISTE BASQUE - ORGANISATION RÉGIONALE D'IPARRALDE - France
(N° 71251/01)
Decision 5.10.2006 [Section I]

The applicant party is the French "branch" of the EAJ-PNB, a political party under Spanish law whose aim is to defend and promote Basque nationalism. In order to be allowed to receive funds, in particular from the EAJ-PNB, the applicant party formed a funding association in accordance with the 1988 Law on financial transparency in political life. In 1998 it applied to the National Commission on Election Campaign Accounts and Political Funding (the CCFP) to obtain approval for the association. The Commission refused the request, arguing that the above-mentioned Law prohibited the funding of a political party by a foreign legal entity and that in view of the unlawful nature of the funding, which made up most of the applicant party's resources, the party could not have a funding association approved under the legislation. The CCFP also dismissed a subsequent request by the applicant party to reconsider its decision. The party then applied to the *Conseil d'Etat* to have the decision set aside. In its ruling, the *Conseil d'Etat* referred in particular to the ban on any foreign legal entity funding a French political party. In response to the ground of appeal submitted by the applicant to the effect that the applicable law was incompatible with Article 10 of the Convention, the *Conseil d'Etat* ruled that the legislature, in prohibiting foreign States and foreign legal entities from providing funding to French political parties, had sought to prevent the creation of links of dependency which might be prejudicial to national sovereignty; that aim was consistent with the "prevention of disorder" within the meaning of Article 10(2) of the Convention.

Admissible under Articles 10 and 11 taken separately and in combination: While the applicant party had omitted to refer to Article 11 of the Convention at the domestic level, it had relied expressly on Article 10. The two provisions were closely linked, in particular in the case of political parties, as the protection of opinions and the freedom to express them for the purposes of Article 10 were among the objectives of the freedom of assembly and association enshrined in Article 11. In addition, the applicant party had contended before the *Conseil d'Etat*, among other arguments, that the ban on the funding of French political parties by a political party from a European Union Member State constituted a serious impediment to the development of a democratic society. The party had also clearly highlighted the fact that the funding from the Spanish Basque nationalist party was crucial to its operation, and had argued that the ban in question was in breach of Community law. Finally, on a more general note, the issue of the funding of the applicant party's political activities had been central to the domestic proceedings. Accordingly, respect for the rights guaranteed by Article 11 had been at issue – if only implicitly – at the domestic level; the legal arguments advanced by the applicant party at that stage had included a complaint linked to those rights and the applicant had relied, at least in substance, on the complaint it raised before the Court. As the respondent State had therefore had the opportunity of providing redress for the violation alleged before the Court, their objection based on failure to exhaust domestic remedies had to be dismissed.

ARTICLE 14

DISCRIMINATION (Article 8)
Impossibility to disclaim paternity established by final judicial decision, in contrast with presumed paternity: *violation*.

PAULIK – Slovakia (N° 10699/05)
Judgment 10.10.2006 [Section IV]

(See Article 8 above).

DISCRIMINATION (Article 1 of Protocol No. 1)
Denial, on the basis of nationality, of entitlement to a pension in respect of years worked abroad: *admissible*.

VASSILEVSKI - Latvia (N° 73485/01)
Decision 5.10.2006 [Section III]

The applicant is a Russian national who has lived in Latvia since 1986, after working for almost thirty years in China and Uzbekistan. He worked for over ten years in Latvia, partly for a company which had its registered office outside the country. In August 1991 Latvia regained its independence. After the break-up of the Soviet Union at the end of 1991 the applicant, who had become stateless, applied for and obtained citizenship of the Russian Federation. On reaching retirement age in 1998 he applied for a retirement pension in Latvia. The Latvian authorities subsequently recognised his entitlement to a pension only in respect of the time worked in Latvia, without counting the period of many years when he had worked in China and Uzbekistan, in accordance with section 1 of the transitional provisions of the State Pensions Act adopted following Latvian independence. The applicant complained that he had been discriminated against on the basis of his nationality, since the law stated that periods worked outside Latvia could be taken into consideration only for Latvian nationals. The Latvian courts dismissed the applicant's appeals, finding that the law had been applied correctly.
Admissible under Article 1 of Protocol No. 1 and Article 14.

DISCRIMINATION (Article 1 of Protocol No. 1)
Impossibility to obtain delivery of possession of property seized by the German *Reich* and located in the former GDR, in contrast with property located in the former FRG: *inadmissible*.

WEBER - Germany (N° 55878/00)
Decision 23.10.2006 [Section V]

(See Article 1 of Protocol No. 1 below).

ARTICLE 34

VICTIM
Lack of adequate redress for excessive length of proceedings: *violation*.

GRÄSSER - Germany (N° 66491/01)
Judgment 5.10.2006 [Section V]

Facts: In 1974 the applicant brought an official liability action seeking compensation from the city. In 1976 his real estate was sold by compulsory auction. After three retrials, his action in compensation was

dismissed. The proceedings terminated with the decision of the Federal Constitutional Court served on the applicant in 2003. In 2004, insolvency proceedings were initiated against the applicant.
Upon the applicant's complaint, the Federal Constitutional Court in 2000 held that his right to an effective judicial remedy under the Basic Law had been violated in that the length of the proceedings had been obviously excessive. In 2001, the applicant brought another official liability action against the Land for compensation of damage suffered as a result of the excessive length of proceedings. These proceedings are still pending.

Law: Article 34 – The Federal Constitutional Court had acknowledged in substance a violation of Article 6(1). However, it was not empowered to set deadlines, to order specific measures to speed up the proceedings effectively or to award compensation. The applicant's official liability action for compensation of damage sustained because of the length of the proceedings was still pending and, in any event, in those proceedings the applicant would not be able to obtain compensation for non-pecuniary damage. Therefore, the German authorities could not be taken to have provided the applicant with adequate redress for the breach of his right to a hearing within a reasonable time and, consequently, the applicant had not lost his status as a "victim" within the meaning of Article 34.
Conclusion: Government's preliminary objection dismissed (unanimously).

Article 6(1) – Despite the complexity of the case, the overall length of the proceedings (almost 29 years involving four levels of jurisdiction) disclosed that the civil courts could not be considered to have treated the case with the diligence required, given that the applicant's economic existence was at stake in them.
Conclusion: violation (unanimously).

Article 41 – The Court made an award for non-pecuniary damage (EUR 45,000).

See also *Sürmeli v. Germany* ([GC], no. 75529/01, 8 June 2006) in CLR no. 87, at p. 33.

VICTIM
Compensation awarded by Constitutional Court significantly lower than amounts awarded by the European Court in similar cases: *victim status granted*.

TOMAŠIĆ - Croatia (N° 21753/02)
Judgment 19.10.2006 [Section I]

(See Article 6(1) "Access to court" above).

VICTIM
Shareholder of a limited-liability company being wound up objects to measures relating directly and exclusively to the company's capital: *inadmissible.*

POĶIS - Latvia (N° 528/02)
Decision 5.10.2006 [Section III]

(See Article 6 above).

ARTICLE 35

Article 35(1)

EXHAUSTION OF DOMESTIC REMEDY (France)
Applicant's decision not to pursue divorce proceedings in the Court of Cassation after rejection of his application for legal aid: *preliminary objection (non-exhaustion) dismissed*.

L.L. - France (N° 7508/02)
Judgment 10.10.2006 [Section II]

(See Article 8 above).

ARTICLE 37

Article 37(1)(c)

CONTINUED EXAMINATION NOT JUSTIFIED
Set of circumstances justifying the striking out of the application: *striking out*.

ASSOCIATION SOS ATTENTATS and DE BOËRY - France (N° 76642/01)
Decision 25.10.2006 [Grand Chamber]

The first applicant is an association whose members are victims of terrorist acts. The sister of the second applicant was one of the 170 victims, who included many French nationals, killed in the terrorist attack in 1989 against an aircraft, operated by the French company UTA, which exploded in flight above the Tenere desert. In the context of proceedings brought in France, six Libyan nationals, belonging to or linked with the Libyan secret service, were committed for trial in the Paris Assize Court, sitting in a special composition, and were sentenced *in absentia* to life imprisonment and ordered to pay compensation to the victims' families. The second applicant and her family received certain sums as a result. In 1999 the applicants lodged a civil-party complaint (*plainte avec constitution de partie civile*) against Colonel Gaddafi for complicity in murder and destruction of property by use of an explosive substance which caused loss of life in furtherance of a conspiracy calculated to disturb public order through intimidation or terror. The investigating judge ruled that there was a case to answer. On an application by the public prosecutor's office, the Indictment Division of the Paris Court of Appeal, while drawing attention to the existence of the immunity from prosecution of foreign heads of State, considered that, having regard to the development of international law, this immunity was no longer absolute and could not cover the crimes complained of in the instant case. In 2001 the Court of Cassation quashed that judgment and declared it void, without remitting the case, holding that under international law as it stood those crimes were not covered by the exceptions to the principle of immunity from jurisdiction for foreign heads of State in office and that there was therefore no case to answer with regard to the applicants' complaint. In 2004 the association Les familles du DC 10 UTA en colère! (The UTA DC 10 families in angry mood!) and the applicant association, representing the victims' families, signed an agreement with the "Gaddafi International Foundation for Charity Associations". Under this agreement, the families of the 170 victims would each receive one million US dollars in exchange for "waiving the right to bring any kind of civil or criminal proceedings before any French or international court based on the explosion on board the aircraft". The second applicant had to date not agreed to any such waiver. The first applicant had undertaken "not to conduct any hostile action or dispute against Libya, Libyan nationals or Libyan legal entities relating to the explosion on board the aircraft".

Inadmissible under Article 37(1) (c) – The signing of the 2004 agreement had been brought to the Court's attention after the application was lodged. It was therefore necessary to determine whether this new fact was such as to lead it to decide to strike the application out of its list of cases in application of Article 37 of the Convention. The agreement did not refer to proceedings, such as those before the Court, which were directed against France. There could therefore be no question of striking the application out of the list of cases in application of Article 37 (1) (a), especially as the applicants had expressly indicated that they wished to pursue it. Furthermore, the agreement in question had been concluded subsequent to the judgment of 2001 which, in the applicants' view, had violated their right of access to a court. In any event, the agreement was not intended to enable the applicants to have access to the French courts. Accordingly, the key aspect of the applicants' direct complaint persisted, which was sufficient for the Court to conclude that the dispute had not been "resolved" within the meaning of Article 37 (1) (b). As to the application of Article 37 (1) (c), the conclusion of the 2004 agreement had been due in large part to France's diplomatic intervention and was unquestionably in line with the interests of the family members of the attack's victims, a view that was supported by the fact that the associations representing those interests – including the applicant association – were signatories to it. In that connection, it was to be noted that the agreement provided for the payment of substantial sums to the families of the victims. Although the second applicant had to date refused to sign the waiver on which payment was dependent, it appeared from the statements made by her counsel at the hearing before the Court that the amount payable to her under the agreement remained available at the Bank for Official Deposits and that she would take her final decision in the light of the Court's conclusions in the instant case. In addition, there was a certain contradiction in the attitude of the applicant association, which, despite having undertaken in the agreement not to bring any proceedings against Libya or Libyan citizens based on the explosion on board the aircraft, still wished the Court to pursue the examination of complaints based on the impossibility for the victims' relatives to have access to such proceedings. Finally, in 1999 the French courts had sentenced six Libyan officials *in absentia* to life imprisonment and ordered them to pay compensation for non-pecuniary damage to the victims' families, civil parties to those proceedings. At the hearing before the Court the applicants' counsel stated for the first time that various sums had indeed been paid in this connection to the civil parties, including to the second applicant and her family. In sum, the conclusion of the 2004 agreement, the latter's terms and the fact that the second applicant had obtained a judgment on the question of the responsibility of six Libyan officials were circumstances which, taken together, led the Court to consider that it was no longer justified to continue the examination of the application within the meaning of Article 37 (1) (c) of the Convention. As no other element regarding respect for human rights as guaranteed by the Convention required that this application be examined further, the Court decided, unanimously, *to strike the application out of the list*.

ARTICLE 1 OF PROTOCOL No. 1

PEACEFUL ENJOYMENT OF POSSESSIONS

Impossibility of obtaining enforcement of final judgment ordering release of money in "frozen" foreign-currency bank account: *violation*.

JELIČIĆ - Bosnia and Herzegovina (N° 41183/02)
Judgment 31.10.2006 [Section IV]

(See Article 6(1) [civil] above).

PEACEFUL ENJOYMENT OF POSSESSIONS
Compulsory contributions required from farm cooperatives under Community law for exceeding milk quotas: *inadmissible*.

Coopérative des agriculteurs de Mayenne and Coopérative laitière Maine-Anjou - France
(N° 16931/04)
Decision 10.10.2006 [Section II]

The applicants are two farm cooperatives under French law, one of whose functions is to collect milk and milk derivatives supplied by the farmers belonging to the cooperative. The second applicant is in reality simply the legal entity which took over the first applicant's milk collection operations. Following an inspection by the National Dairy Board (Onilait) aimed in particular at checking that the first applicant's activities were compatible with the Community regulations, the first applicant was informed that it had exceeded its milk production quotas for 1988-1992. Onilait therefore gave the first applicant notice to pay substantial sums in over-production levies. The applicants asked the administrative courts to set aside the enforceable orders issued by Onilait for the payment of the sums concerned. The administrative court rejected their application, finding that there was no foundation for the applicants' assertion that the basis on which the amounts recovered had been calculated had not been made sufficiently clear. The applicants appealed to the administrative court of appeal, which upheld the earlier judgments, emphasising, among other points, that the French rules in this sphere merely gave effect to the Community regulations, and that compliance with Article 6(1) of the Convention did not require that the levies should be adjusted by the courts. The applicants then appealed on points of law to the *Conseil d'Etat*, arguing in particular that the impugned levies were in breach of the provisions of Article 1 of Protocol No. 1. The *Conseil d'Etat* dismissed the appeal, finding that the appeal court had replied adequately to the grounds of appeal submitted to it (which were not ineffective) and had not committed any error of law.

Inadmissible under Article 6, as the courts applied to at first instance could properly be described as courts of first instance and the *Conseil d'Etat* had conducted a genuine and thorough examination of the judgments being appealed against: *manifestly ill-founded*.

Inadmissible under Article 7, as no one had been "held guilty" in the instant case within the meaning of that Article: *incompatible ratione materiae*.

Inadmissible under Article 14, as the applicants' final submissions to the *Conseil d'Etat* had not included any arguments amounting to a complaint as such to the effect that the levy system was discriminatory: *failure to exhaust domestic remedies*.

Inadmissible under Article 1 of Protocol No. 1 – The interference represented by the levies at issue was justified under Article 1 of Protocol No. 1, as the legal basis for the impugned measure was the Community legislation laying down the amount of contributions to be paid, and the French authorities did not enjoy any discretion in that regard. In addition, adherence by the authorities of European Union Member States to the policy aimed at stabilising the milk market not only played a legitimate part in ensuring the effectiveness of international cooperation and the proper functioning of international organisations, but was also of direct benefit to the applicants. Accordingly, the case did not disclose manifest shortcomings in the protection of the rights guaranteed by the Convention capable of rebutting the presumption of protection of those rights by Community law: *manifestly ill-founded*.

PEACEFUL ENJOYMENT OF POSSESSIONS
Impossibility to obtain compensation for nationalised property due to the State's continued failure to enact an ordinance regulating this issue, as required by law: *communicated*.

PIKIELNY - Poland (N° 3524/05)
[Section IV]

The applicants' ancestors owned a factory. During the Second World War, they were taken by the Nazis to concentration camps or ghettos. The factory operated under a Nazi-appointed trustee. It was then taken over and managed by the communist authorities. In 1948 the factory was nationalised pursuant to the Law of 1946 on the nationalisation of basic branches of the State economy. The former owners were neither notified about the take-over of their property nor were they compensated for it. However, the applicants' family remained listed in the Land and Mortgage Register as the factory's owner until the beginning of the 1990s. At that time, the applicants made unsuccessful attempts to have the land and factory restored to them or, alternatively, to obtain compensation. In 1992 a district court ordered that the State Treasury be entered in the Land and Mortgage Register as the owner of the property. The applicants' appeal was dismissed in 1993.
In 2004, the Minister for Economy and Labour informed the applicants that until that time no ordinance regulating the issues of pecuniary compensation for nationalised property had been enacted. Admittedly, the 1946 Act stated that an appropriate body would be set up to deal with such compensation claims and that the relevant rules governing the principles for payment of compensation would be established. However, the Cabinet had not yet fulfilled that statutory obligation. Accordingly, there was no body that could be authorised to act in respect of compensation or related matters: *communicated*.

DEPRIVATION OF PROPERTY
Absence of compensation for *de facto* occupation and subsequent transfer of property title to the State due to 20 years' statutory limitation period: *violation*.

BÖREKCIOGULLARI (CÖKMEZ) - Turkey (N° 58650/00)
Judgment 19.10.2006 [Section III]

Facts: In 1990 the applicants inherited a plot of land which was being used by the Ministry of Defence as a military base. In 1991 they brought an action for compensation claiming that the Ministry had not conducted expropriation proceedings or compensated them for the damage resulting from the illegal occupation of the land. In 1996 the court held that the Ministry had been in actual possession of the land since 1942 and rejected the case as being time-barred. The applicants continued to pay the land tax every year, until the court's further decision of 1998 by which their title to the land in question was transferred to the State. In 2003 the Constitutional Court annulled the law provision concerning the limitation period as being unconstitutional.

Law: In addition to the conclusions of the Constitutional Court, the European Court noted that the impugned law provision had not provided adequate protection of the landowners as it had required them to claim compensation for deprivation of property rather than obliged the authorities to pay it automatically. Moreover, the fact that the time-limit for claiming compensation ran from *de facto* occupation had allowed the administration to benefit from a situation already existing when the relevant law had entered into force. The application of the relevant law provision by the domestic authorities had had the consequence of depriving the applicants of the possibility of obtaining damages for the annulment of their title. In the absence of adequate compensation in exchange for their property, the interference in question, although prescribed by law, had not struck a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.
Conclusion: violation (unanimously).

Article 41 – The Court made an award in respect of pecuniary damage (EUR 373,000).

DEPRIVATION OF PROPERTY
Impossibility to obtain delivery of possession of property seized by the German *Reich* and located in the former GDR: *inadmissible*.

WEBER - Germany (N° 55878/00)
Decision 23.10.2006 [Section V]

In 1944 the German Reich seized a plot of land owned by the applicant's father for the purpose of railway construction, but did not expropriate the land. Subsequently, the GDR State Railways and, after the German reunification, the German State Railways Corporation continued to use the land. The applicant's father and, after his death in 1994, the applicant were listed as the real estate's owner in the land register. The applicant did not pay property tax, but the German State Railways Corporation did. The negotiations between the owner and the Railways on the purchase of the land failed several times. The applicant brought an action for delivery of possession and the regional court and the court of appeal found for her. Relying on the Unification Treaty and acknowledging the applicant's formal ownership, the Federal Court of Justice set aside those judgments and rejected her claim. The Federal Constitutional Court refused to admit her constitutional complaint.

The applicant's formal ownership constituted a "possession" within the meaning of Article 1 of Protocol No. 1. Her property rights had been diminished to such an extent that the interference amounted to a *de facto* expropriation. This interference, provided for by the Unification Treaty, was aimed at protecting the FRG's financial capacity and was therefore "in the public interest". The FRG was in principle under no obligation to settle damages caused by the war and the collapse of the German *Reich* with which the GDR had not dealt during a period of more than forty years, and enjoyed a wide margin of appreciation when deciding to provide redress for such damages in some cases. The European Court agreed with the Federal Court of Justice that in view of the long exclusion of the applicant's family from the use of the land (more than sixty years), the applicant's property rights had been significantly diminished, resulting in a merely formal title of ownership. In this connection the Court noted that the title in the land register as such had no actual value in the socialist economy of the GDR and that the applicant did not bear the obligations deriving from property, such as taxes. Having regard to the unique context of the German reunification and the enormous task faced by the German legislator in dealing with unresolved complex property issues, the Court concluded that the exceptional circumstances justified the lack of any compensation. The same reasons provided objective and reasonable justification, within the meaning of Article 14, to the different treatment of the owners of property seized during the German *Reich*.Such treatment - provided for by the Unification Treaty - excluded claims for delivery of possession if the property was situated in the new *Länder* (the former GDR), in contrast with property situated in the old ones (the former FRG): *manifestly ill-founded*.

ARTICLE 2 OF PROTOCOL No. 1

RIGHT TO EDUCATION
Refusal to recognise specialist medical training undertaken abroad for failure to satisfy the relevant criteria: *no violation*.

KÖK - Turkey (N° 1855/02)
Judgment 19.10.2006 [Section III]

(See Article 6(1) above).

ARTICLE 2 OF PROTOCOL No. 4

Article 2(1)

FREEDOM TO CHOOSE RESIDENCE
FREEDOM OF MOVEMENT
Fine unlawfully imposed on foreigner for his failure to register his changed whereabouts: *violation*.

BOLAT - Russia (N° 14139/03)
Judgment 5.10.2006 [Section I]

Facts: Between 1998 and 2003 the applicant, a Turkish national, lived in Russia on the basis of a long-term residence permit due to expire on 4 August 2003. In 2002 the police imposed a fine on him for residing at his friend's flat without having registered that address as his place of residence. In May 2003 the Passports and Visas Department annulled the applicant's residence permit on the ground that he had repeatedly violated residence regulations. He was ordered to leave Russia within 15 days but a town court stayed the execution of that order pending the Supreme Court's decision on his request for supervisory review.
On 7 August 2003 several officers of the Ministry of the Interior and the Federal Security Service, some of them masked, entered the applicant's flat, handcuffed him and placed him on a flight to Istanbul. The officers did not identify themselves or produce a search or deportation warrant. In October 2003 the Supreme Court of Kabardino-Balkaria set aside the police decision of 2002 as well as the town court's judgment of 2003 and discontinued the proceedings against the applicant. It noted in particular that the town court had required proof that the applicant had only been a guest at his friend's flat, such a requirement running contrary to the presumption of innocence. Moreover, the administrative charge against the applicant had been examined by a police officer with no territorial jurisdiction over the area in which the applicant's friend had been living. That fact alone had rendered the sanction unlawful. The town court subsequently ordered that the applicant's residence permit be extended for five years.

Law: Article 2 of Protocol No. 4 – There had been an interference with the applicant's right to liberty of movement in that he had been obliged, under threat of administrative sanctions, to register any change of address with the police within three days. The Supreme Court, using an extraordinary remedy, had set aside the police decision of 2002 and the subsequent judicial decisions on the grounds that the matter had been examined by a police officer acting in excess of his powers and as the courts had shifted the burden of proof onto the applicant in breach of the principle of the presumption of innocence. The impugned measure had not therefore been in accordance with the law.
Conclusion: violation (unanimously).

Article 1 of Protocol No. 7 – Although Russian law required a judicial decision for expulsion of a foreign national, no such order had been issued for the applicant's expulsion. Indeed, he had been expelled at the time when his complaint about the annulment of his residence permit had remained under review and a stay of enforcement of his expulsion had remained in effect. It followed that the decision to expel him had not been taken in accordance with law.
Conclusion: violation (unanimously).

Article 41 – EUR 8,000 for non-pecuniary damage.

Article 2(2)

FREEDOM TO LEAVE A COUNTRY
Withdrawal of suspect's passport for over a decade while criminal proceedings were pending: *violation*.

FÖLDES and FÖLDESNÉ HAJLIK - Hungary (No 41463/02)
Judgment 31.10.2006 [Section II]

Facts: The applicants, then a married couple, were charged with fraudulent bankruptcy. Criminal proceedings were instituted against Mr Földes and he was interrogated as a suspect. The proceedings were later extended to include his wife. In 1994 the Passport Office of the Ministry of the Interior withdrew Mr Földes' passport until the termination of the criminal proceedings in order to secure his availability for justice. The applicants were convicted in 2006.

Law: The Court noted that the prohibition against Mr Földes leaving the country had remained unaltered for some ten years, until May 2004 when it had become possible for the applicant to travel within the European Union solely with a national identity card. The travel ban had amounted to an automatic, blanket measure of indefinite duration and had run contrary to the authorities' duty to take appropriate care that any interference with the right to leave one's country should be justified and proportionate.
Conclusion: violation (unanimously).

Article 41 – EUR 3,000 for non-pecuniary damage.

ARTICLE 1 OF PROTOCOL No. 7

EXPULSION OF ALIEN
Expulsion in the absence of a judicial decision albeit such was required by domestic law: *violation*.

BOLAT - Russia (N° 14139/03)
Judgment 5.10.2006 [Section I]

(See Article 2 of Protocol No. 4 above).

ARTICLE 4 OF PROTOCOL No. 7

NE BIS IN IDEM
Legal classification of similar charges in two successive sets of proceedings against the applicant based on separate facts: *no violation*.

MARCELLO VIOLA - Italy (N° 45106/04)
Judgment 5.10.2006 [Section III]

(See Article 6 [criminal] above).

NE BIS IN IDEM
Separate convictions for offences committed one after another, directed against different persons and differing in their degree of seriousness: *inadmissible*.

AŞCI - Austria (N° 4483/02)
Decision 19.10.2006 [Section III]

The Federal Police Directorate convicted the applicant of aggressive behaviour towards a public officer as the applicant had shouted and tried to snatch his driving licence from police officer P. A regional court subsequently convicted the applicant of having attempted to resist the exercise of official authority and of having caused grievous bodily harm in that he had started a fight with police officer M. in which he had bruised the officer with his car keys and had kicked her legs.
The Court reiterated that the aim of Article 4 of Protocol no. 7 is to prohibit the repetition of criminal proceedings which have been concluded by a final decision. The mere fact that one act constitutes more than one offence is not contrary to Article 4 of Protocol no. 7. However, where different offences based on one act are prosecuted consecutively, one after the final decision of the other, the Court has to examine whether or not such offences have the same essential elements. In the present case the Federal Police Directorate convicted the applicant of aggressive behaviour towards police officer P. A regional court subsequently convicted the applicant of having attempted to resist the exercise of official authority and of having caused grievous bodily harm to police officer M. The applicant's case therefore had to be distinguished from the cases of *Gradinger v. Austria* and *Oliveira v. Switzerland*, where the respective applicants had committed only one single act constituting different offences. In the present case the offences at issue were separate and subsequent in time. In any event, even accepting the applicant's argument that he was punished twice on account of one single act (namely the events occurring during the dispute with the two police officers), the Court, applying the test developed in the case of *Franz Fischer v. Austria*, considered that the two offences differed in their essential elements. They were committed one after another, directed against different persons and differed in their degree of seriousness. Even assuming that it would have been more consistent with the principles governing the proper administration of justice to have had the applicant tried by one single court in one set of proceedings, this was irrelevant as regards compliance with Article 4 of Protocol No. 7 since that provision does not preclude separate offences being tried by different courts. *Manifestly ill-founded*.

Other judgments delivered in October

Ben Naceur v. France (Nº 63879/00), 3 October 2006 [Section II]
Kuril v. Slovakia (Nº 63959/00), 3 October 2006 [Section IV]
Başkaya v. Turkey (Nº 68234/01), 3 October 2006 [Section II]
Łuczko v. Poland (Nº 73988/01), 3 October 2006 [Section IV]
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Rybczyńscy v. Poland (Nº 3501/02), 3 October 2006 [Section IV]
Courty and another v. France (Nº 15114/02), 3 October 2006 [Section II]
Cour v. France (Nº 44404/02), 3 October 2006 [Section II]
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Achache v. France (Nº 16043/03), 3 October 2006 [Section II]
Kalmár v. Hungary (Nº 32783/03), 3 October 2006 [Section II]
Gajcsi v. Hungary (Nº 34503/03), 3 October 2006 [Section II]
E.T. v. France (Nº 7217/05), 3 October 2006 [Section II]

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Sali v. Sweden (Nº 67070/01), 10 October 2006 [Section II] (friendly settlement)
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(just satisfaction – friendly settlement)
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Danelia v. Georgia (Nº 68622/01), 17 October 2006 [Section II]
Gurgenidze v. Georgia (Nº 71678/01), 17 October 2006 [Section II]
Andrzejewski v. Poland (Nº 72999/01), 17 October 2006 [Section IV]
Sultan Öner and Others v. Turkey (Nº 73792/01), 17 October 2006 [Section II]
Augustyniak v. Poland (Nº 5413/02), 17 October 2006 [Section IV]
Piątkowski v. Poland (Nº 5650/02), 17 October 2006 [Section IV]
Zielonka v. Poland (Nº 7313/02), 17 October 2006 [Section IV]
Gąsiorowski v. Poland (Nº 7677/02), 17 October 2006 [Section IV]
Nowak v. Poland (Nº 8612/02), 17 October 2006 [Section IV]
Czerwiński v. Poland (Nº 10384/02), 17 October 2006 [Section IV]
Chodzyńscy v. Poland (Nº 17484/02), 17 October 2006 [Section IV]
Öz and Başpinar v. Turkey (Nº 41227/02), 17 October 2006 [Section II]
Grabiński v. Poland (Nº 43702/02), 17 October 2006 [Section IV]

Stankiewicz v. Poland (Nº 29386/03), 17 October 2006 [Section IV]
Kwiatkowski v. Poland (Nº 4560/04), 17 October 2006 [Section IV]

Kamer Demir and Others v. Turkey (Nº 41335/98), 19 October 2006 [Section III]
Selim Yıldırım and Others v. Turkey (Nº 56154/00), 19 October 2006 [Section III]
Majadallah v. Italy (Nº 62094/00), 19 October 2006 [Section I]
M.A.T. v. Turkey (Nº 63964/00), 19 October 2006 [Section III]
Abdullah Altun v. Turkey (Nº 66354/01), 19 October 2006 [Section III]
Hikmedin Yıldız v. Turkey (Nº 69124/01), 19 October 2006 [Section III]
Öktem v. Turkey (Nº 74306/01), 19 October 2006 [Section III]
Diril v. Turkey (Nº 68188/01), 19 October 2006 [Section III]
Gautieri and Others v. Italy (Nº 68610/01), 19 October 2006 [Section III]
Irina Fedotova v. Russia (Nº 1752/02), 19 October 2006 [Section I]
Romanenko v. Russia (Nº 19457/02), 19 October 2006 [Section I]
Kesyan v. Russia (Nº 36496/02), 19 October 2006 [Section I]
Sağir v. Turkey (Nº 37562/02), 19 October 2006 [Section III]
Matache and Others v. Romania (Nº 38113/02), 19 October 2006 [Section III]
Mukhin v. Ukraine (Nº 39404/02), 19 October 2006 [Section V]
Arsov v. "the former Yugoslav Republic of Macedonia" (Nº 44208/02), 19 October 2006 [Section V]
Raicu v. Romania (Nº 28104/03), 19 October 2006 [Section III]
Ceglia v. Italy (Nº 21457/04), 19 October 2006 [Section I]

Baba v. Turkey (Nº 35075/97), 24 October 2006 [Section II]
Martin v. United Kingdom (Nº 40426/98), 24 October 2006 [Section IV]
Terece and Others v. Turkey (Nº 41054/98), 24 October 2006 [Section II]
Akkan and Erkizilkaya v. Turkey (Nº 48055/99), 24 October 2006 [Section II]
Romaniak v. Poland (Nº 53284/99), 24 October 2006 [Section IV]
Akay v. Turkey (Nº 58539/00), 24 October 2006 [Section II]
Yüksektepe v. Turkey (Nº 62227/00), 24 October 2006 [Section II]
Taner Kılıç v. Turkey (Nº 70845/01), 24 October 2006 [Section II]
Atut Sp. z o.o. v. Poland (Nº 71151/01), 24 October 2006 [Section IV]
Baranowksa v. Poland (Nº 72994/01), 24 October 2006 [Section IV]
Açıkgöz v. Turkey (Nº 76855/01), 24 October 2006 [Section II]
Orzechowski v. Poland (Nº 77795/01), 24 October 2006 [Section IV]
Kaya and Others v. Turkey (Nº 4451/02), 24 October 2006 [Section II]
Kürkçü and Others v. Turkey (Nº 7142/02), 24 October 2006 [Section II]
Kusyk v. Poland (Nº 7347/02), 24 October 2006 [Section IV]
Stevens v. Poland (Nº 13568/02), 24 October 2006 [Section IV]
Sokołowski v. Poland (Nº 15337/02), 24 October 2006 [Section IV]
Zych v. Poland (Nº 28730/02), 24 October 2006 [Section IV]
Maçin v. Turkey (no. 2) (Nº 38282/02), 24 October 2006 [Section II]
Szwagrun-Baurycza v. Poland (Nº 41187/02), 24 October 2006 [Section IV]
Vincent v. France (Nº 6253/03), 24 October 2006 [Section II]
Üstüncan and Others v. Turkey (Nº 11914/03), 24 October 2006 [Section II]
Stemplewski v. Poland (Nº 30019/03), 24 October 2006 [Section IV]
Żak v. Poland (Nº 31999/03), 24 October 2006 [Section IV]
Central Mediterranean Development Corporation Limited v. Malta (Nº 35829/03), 24 October 2006 [Section IV]
Edwards v. Malta (Nº 17647/04), 24 October 2006 [Section IV]

Ledyayeva and Others v. Russia (Nº 53157/99, Nº 53247/99, Nº 53695/00 and Nº 56850/00), 26 October 2006 [Section I]
Danov v. Bulgaria (Nº 56796/00), 26 October 2006 [Section V]
Emanuele Calandra and Others v. Italy (Nº 71310/01), 26 October 2006 [Section III]
Novina v. Slovenia (Nº 6855/02), 26 October 2006 [Section III]

Acatrinei v. Romania (Nº 7114/02), 26 October 2006 [Section III]
Asadov and Others v. Azerbaijan (Nº 138/03), 26 October 2006 [Section I] (striking out)
Mareš v. the Czech Republic (Nº 1414/03), 26 October 2006 [Section V]
Friedrich v. the Czech Republic (Nº 12108/03), 26 October 2006 [Section V]
Lenardon v. Belgium (Nº 18211/03), 26 October 2006 [Section I]
Ippoliti v. Italy (Nº 12263/05), 26 October 2006 [Section III]

Güner Çorum v. Turkey (Nº 59739/00), 31 October 2006 [Section IV]
Dilek Yılmaz v. Turkey (Nº 58030/00), 31 October 2006 [Section IV]
Karaoğlan v. Turkey (Nº 60161/00), 31 October 2006 [Section IV]
Kahraman v. Turkey (Nº 60366/00), 31 October 2006 [Section IV]
Tüzel v. Turkey (no. 2) (Nº 71459/01), 31 October 2006 [Section IV]
Ščuryová v. Slovakia (Nº 72019/01), 31 October 2006 [Section IV]
Drăguță v. Moldova (Nº 75975/01), 31 October 2006 [Section IV]
Gürsoy and Others v. Turkey (Nº 1827/02, Nº 1842/02, Nº 1846/02, Nº 1850/02, Nº 1857/02, Nº 1859/02 and Nº 1862/02), 31 October 2006 [Section IV]
Şahin and Sürgeç v. Turkey (Nº 13007/02 and Nº 13924/02), 31 October 2006 [Section IV]
Pakkan v. Turkey (Nº 13017/02), 31 October 2006 [Section IV]
Stenka v. Poland (Nº 3675/03), 31 October 2006 [Section IV]
Bencze v. Hungary (Nº 4578/03), 31 October 2006 [Section II]
Zborowski v. Poland (Nº 13532/03), 31 October 2006 [Section IV]
Gergely v. Hungary (Nº 23364/03), 31 October 2006 [Section II]
Emesz v. Hungary (Nº 36343/03), 31 October 2006 [Section II]

Referral to the Grand Chamber

Article 43(2)

The following cases have been referred to the Grand Chamber in accordance with Article 43(2) of the Convention:

Shevanova v. Latvia (58822/00) – Section I, judgment of 15 June 2006
Kaftailova v. Latvia (59643/00) – Section I, judgment of 22 June 2006
Georgios Kakamoukas and Others v. Greece (38311/02) – Section I, judgment of 22 June 2006

Judgments which have become final

Article 44(2)(a)

The following judgments have become final in accordance with Article 44(2)(a) of the Convention (declaration from the parties that they will not request that the case be referred to the Grand Chamber) (see Information Notes Nos. 87 and 88):

Koudelka - Czech Republic (Nº 1633/05)
Judgment 20.7.2006 [Section V]

Klement and Others– Hungary (Nº 31701/02)
Judgment 27.7.2006 [Section II]

Article 44(2)(b)

The following judgments have become final in accordance with Article 44(2)(b) of the Convention (expiry of the three-month time-limit for requesting referral to the Grand Chamber) (see Information Notes Nos. 87 and 88):

Biro - Slovakia (N° 57678/00)
Judgment 27.6.2006 [Section IV]

Murashova - Ukraine (N° 16003/03)
Zhmak - Ukraine (N° 36852/03)
Judgments 29.6.2006 [Section IV]

Uyanık - Turkey (Nº 49514/99)
Kutlu - Turkey (Nº 65914/01)
Blagovestnyy - Russia (Nº 72558/01)
Karaman and Beyazıt - Turkey (Nº 73739/01)
Mehmet Yılmaz - Turkey (Nº 12068/03)
Yayabaşi - Turkey (Nº 12083/03)
Kamile Uyanık - Turkey (Nº 12087/03)
Erkan - Turkey (Nº 12091/03)
Judgments 4.7.2006 [Section II]

Dzyruk - Poland (Nº 77832/01)
Zarb - Malta (Nº 16631/04)
Judgments 4.7.2006 [Section IV]

Kavak - Turkey (Nº 53489/99)
Erbakan - Turkey (Nº 59405/00)
Keklik - Turkey (Nº 60574/00)
Beka-Koulocheri - Greece (Nº 38878/03)
Andoniadis - Greece (Nº 10803/04)
Papa - Greece (Nº 21091/04)
Judgments 6.7.2006 [Section I]

Rivière - France (N° 33834/03)
Bastone - Italy (Nº 59638/00)
Sarl du Parc d'Activités de Blotzheim - France (Nº 72377/01)

Aliuţă - Romania (Nº 73502/01)
Teslim Töre (no. 2) - Turkey (Nº 13244/02)
Judgments 11.7.2006 [Section II]

Baybasin - Netherlands (Nº 13600/02)
Salah - Netherlands (Nº 8196/02)
Telecki - Poland (Nº 56552/00)
Campello - Italy (Nº 21757/02)
Sehur - Slovenia (Nº 42246/02)
Sylla - Netherlands (Nº 14683/03)
Grossi and Others - Italy (Nº 18791/03)
Judgments 6.7.2006 [Section III]

Harkmann - Estonia (Nº 2192/03)
Boicenco - Moldova (Nº 41088/05)
Maselli - Italy (no. 2) (Nº 61211/00)
La Rosa and Alba - Italy (no. 5) (Nº 63239/00)
Campisi - Italy (Nº 24358/02)
Gurov - Moldova (Nº 36455/02)
Judgments 11.7.2006 [Section IV]

Rizova – "the former Yugoslav Republic of Macedonia" (Nº 41228/02)
Judgment 6.7.2006 [Section V]

Dubinskaya - Russia (Nº 4856/03)
Nichifor - Romania (Nº 62276/00)
Agga (no. 3) - Greece (Nº 32186/02)
Agga (no. 4) - Greece (Nº 33331/02)
Galatalis - Greece (Nº 36251/03)
Allushi - Greece (Nº 3525/04)
Zaffuto and Others - Italy (Nº 12894/04)
Lo Bue and Others - Italy (Nº 12912/04)
Judgments 13.7.2006 [Section I]

Dogan and Others - Turkey (Nºs 8803-8811/02, 8813/02 and 8815-8819/02)
Jäggi - Switzerland (Nº 58757/00)
S.S. and M.Y. - Turkey (Nº 37951/97)
Fuchser - Switzerland (Nº 55894/00)
Bahçeyaka - Turkey (Nº 74463/01)
Obrovnik - Slovenia (Nº 76438/01)
Farange S.A. - France (Nº 77575/01)
Kristan - Slovenia (Nº 77778/01)
Blagojevič - Slovenia (Nº 77809/01)
Zupanc - Slovenia (Nº 1411/02)
Beriša - Slovenia (Nº 1459/02)
Vincenzo Taiani - Italy (Nº 3638/02)
Radojčič - Slovenia (Nº 4562/02)
Falnoga - Slovenia (Nº 5110/02)
Boškič - Slovenia (Nº 5158/02)
Podjaveršek - Slovenia (Nº 5176/02)
Lušničkič - Slovenia (Nº 5186/02)
Kuzmin - Slovenia (Nº 8756/02)
Svetlin - Slovenia (Nº 10299/02)
Guzej - Slovenia (Nº 14619/02)
Ressegatti - Switzerland (Nº 17671/02)

Radakovič - Slovenia (Nº 20290/02)
Grenko - Slovenia (Nº 29891/02)
Lafargue - Romania (Nº 37284/02)
SC Magna Holding SRL - Romania (Nº 10055/03)
Judgments 13.7.2006 [Section III]

Shamina - Russia (Nº 70501/01)
Vasylyev - Ukraine (Nº 10232/02)
Siliny - Ukraine (Nº 23926/02)
Stork - Germany (Nº 38033/02)
Kovalenko - Russia (Nº 21410/04)
Shiryayeva - Russia (Nº 21417/04)
Grigoryeva - Russia (Nº 21419/04)
Terekhova - Russia (Nº 21425/04)
Vasilyeva - Russia (Nº 21430/04)
Matrena Polupanova - Russia (Nº 21447/04)
Judgments 13.7.2006 [Section V]

Pronina - Ukraine (Nº 63566/00)
Zich and Others - Czech Republic (Nº 48548/99)
Štefanec - Czech Republic (Nº 75615/01)
Balšán - Czech Republic (Nº 1993/02)
Reslová - Czech Republic (Nº 7550/04)
Judgments 18.7.2006 [Section II (former)]

Swedish Transport Workers Union - Sweden (Nº 53507/99)
Jakumas - Lithuania (Nº 6924/02)
Baltacı - Turkey (Nº 495/02)
Tamar - Turkey (Nº 15614/02)
Cosson - France (Nº 38498/03)
Jaczkó - Hungary (Nº 40109/03)
Bíró - Hungary (Nº 15652/04)
Judgments 18.7.2006 [Section II]

Keegan - United Kingdom (Nº 28867/03)
Ratajczyk - Poland (Nº 11215/02)
Kozik - Poland (Nº 25501/02)
Judgments 18.7.2006 [Section IV]

Taiani - Italy (Nº 3641/02)
Bartos - Romania (Nº 12050/02)
Pietro and Others - Romania (Nº 8402/03)
Radu - Romania (Nº 13309/03)
Judgments 20.7.2006 [Section III]

Çapan - Turkey (Nº 71978/01)
Halis Doğan (no. 2) - Turkey (Nº 71984/01)
Ahmet Kiliç - Turkey (Nº 38473/02)
Mehmet Sait Kaya - Turkey (Nº 17747/03)
Judgments 25.7.2006 [Section II]

Kanayev - Russia (Nº 43726/02)
Kaja - Greece (Nº 32927/03)
CED Viandes and SOCINTER-SOCOPA International - France (Nº 77240/01)
Judgments 27.7.2006 [Section I]

İhsan Bilgin - Turkey (Nº 40073/98)
Güzel (No. 2) – Turkey (Nº 65849/01)
Gubler - France (Nº 69742/01)
Gök and Others - Turkey (Nos 71867/01, 71869/01, 73319/01 and 74858/01)
Davtyan - Georgia (Nº 73241/01)
Zervudacki - France (Nº 73947/01)
Ferhat Berk - Turkey (Nº 77366/01)
Varelas - France (Nº 16616/02)
Judgments 27.7.2006 [Section II]

Fadin - Russia (Nº 58079/00)
Rabinovici - Romania (Nº 38467/03)
Judgments 27.7.2006 [Section III]

Article 44(2)(c)

On 23 October 2006 the Panel of the Grand Chamber rejected requests for referral of the following judgments, which have consequently become final:

A.S. v. Poland (39510/98) – Section II, judgment of 20 June 2006
Ambruszkiewicz v. Poland (38797/03) – Section IV, judgment of 4 May 2006
Bielec v. Poland (40082/02) – Section IV, judgment of 27 June 2006
Carstea and Grecu v. Romania (56326/00) – Section III, judgment of 15 June 2006
D. and Others v. Turkey (24245/03) – Section III, judgment of 22 June 2006
Doğrusöz and Aslan v. Turkey (1262/02) – Section II, judgment of 30 May 2006
Ergün v. Turkey (45807/99) – Section II, judgment of 13 June 2006
Examiliotis (n° 2) v. Greece (28340/02) – Section I, judgment of 22 June 2006
Fodale v. Italy (70148/01) – Section III, judgment of 1 June 2006
Gorou v. Greece (n° 3) (21845/03) – Section I, judgment of 22 June 2006
Halit Çelebi v. Turkey (54182/00) – Section II, judgment of 2 May 2006
Havva Dudu Esen v. Turkey (45626/99) – Section II, judgment of 20 June 2006
Heská v. the Czech Republic (43772/02) – Section V, judgment of 23 May 2006
Jávor and Others v. Hungary (11440/02) – Section II, judgment of 23 May 2006
Kuvikas v. Lithuania (21837/02) – Section II, judgment of 27 June 2006
Liakopoulou v. Greece (20627/04) – Section I, judgment of 24 May 2006
Mamedova v. Russia (7064/05) – Section I, judgment of 1 June 2006
Mazelie v. France (5356/04) – Section II, judgment of 27 June 2006
Metelitsa v. Russia (33132/02) – Section I, judgment of 22 June 2006
Mikhaylova and Others v. Ukraine (16475/02) – Section V, judgment of 15 June 2006
Moisejevs v. Latvia (64846/01) – Section I, judgment of 15 June 2006
Pasiński v. Poland (6356/04) – Section IV, judgment of 20 June 2006
Petre v. Romania (71649/01) – Section II, judgment of 27 June 2006
Šilc v. Slovenia (45936/99) – Section III, judgment of 29 June 2006
Stojić v. Croatia (36719/03) – Section I, judgment of 1 June 2006
Tan and Others v. Turkey (42577/98) – Section II, judgment of 20 June 2006
Weissman and Others v. Romania (63945/00) – Section III, judgment of 24 May 2006
Yaşaroğlu v. Turkey (45900/99) – Section II, judgment of 20 June 2006
Yiltas Yildiz Turistik Tesisleri A.S. v. Turkey (30502/96) – Section III, judgment of 27 April 2006

Statistical information[1]

Judgments delivered	October	2006
Grand Chamber	3	28(29)
Section I	29(32)	206(209)
Section II	50	309(322)
Section III	43	364(381)
Section IV	56(63)	230(247)
Section V	15	88(92)
former Sections	0	15
Total	**196(206)**	**1240(1295)**

Judgments delivered in October 2006					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	3	0	0	0	3
Section I	28(31)	0	1	0	29(32)
Section II	49	1	0	0	50
Section III	43	0	0	0	43
Section IV	55(62)	0	0	1	55(63)
Section V	15	0	0	0	15
former Section I	0	0	0	0	0
former Section II	0	0	0	0	0
former Section III	0	0	0	0	0
former Section IV	0	0	0	0	0
Total	**193(203)**	**1**	**1**	**1**	**196(206)**

Judgments delivered in 2006					
	Merits	Friendly settlements	Struck out	Other	Total
Grand Chamber	23(24)	3	0	2	28(29)
Section I	200(203)	4	2	0	206(209)
Section II	300(313)	4	3	2	309(322)
Section III	351(354)	10	1	2(16)	364(381)
Section IV	219(235)	7(8)	0	4	230(247)
Section V	88(92)	0	0	0	88(92)
former Section I	0	0	0	1	1
former Section II	12	0	0	0	12
former Section III	0	0	0	0	0
former Section IV	2	0	0	0	2
Total	**1195(1235)**	**28(29)**	**6**	**11(25)**	**1240(1295)**

[1] The statistical information is provisional. A judgment or decision may concern more than one application: the number of applications is given in brackets.

Decisions adopted		October	2006
I. Applications declared admissible			
Grand Chamber		0	0
Section I		9	123(129)
Section II		3	30(31)
Section III		1	22(25)
Section IV		0	40(42)
Section V		4	17(19)
Total		**16**	**231(245)**
II. Applications declared inadmissible			
Grand Chamber		0	0
Section I	- Chamber	8	48
	- Committee	701	5078
Section II	- Chamber	13	70(74)
	- Committee	487	3882
Section III	- Chamber	5	687(709)
	- Committee	329	4143
Section IV	- Chamber	9	130(131)
	- Committee	561	6066
Section V	- Chamber	15	54
	- Committee	579	2757
Total		**2707**	**22915(22942)**
III. Applications struck off			
Grand Chamber		1	1
Section I	- Chamber	6	74
	- Committee	12	42
Section II	- Chamber	12	90
	- Committee	9	76
Section III	- Chamber	3	55(72)
	- Committee	3	58
Section IV	- Chamber	7	58(59)
	- Committee	6	91
Section V	- Chamber	2	63
	- Committee	4	34
Total		**65**	**642(660)**
Total number of decisions[1]		**2788**	**23788(23847)**

[1] Not including partial decisions.

Applications communicated	October	2006
Section I	64	581
Section II	47	567(576)
Section III	58	753
Section IV	65	438
Section V	162	355
Total number of applications communicated	**396**	**2694(2703)**

Articles of the European Convention of Human Rights and Protocols Nos. 1, 4, 6 and 7

Convention

Article 2 :	Right to life
Article 3 :	Prohibition of torture
Article 4 :	Prohibition of slavery and forced labour
Article 5 :	Right to liberty and security
Article 6 :	Right to a fair trial
Article 7 :	No punishment without law
Article 8 :	Right to respect for private and family life
Article 9 :	Freedom of thought, conscience and religion
Article 10 :	Freedom of expression
Article 11 :	Freedom of assembly and association
Article 12 :	Right to marry
Article 13 :	Right to an effective remedy
Article 14 :	Prohibition of discrimination
Article 34 :	Applications by person, non-governmental organisations or groups of individuals

Protocol No. 1

Article 1 :	Protection of property
Article 2 :	Right to education
Article 3 :	Right to free elections

Protocol No. 4

Article 1 :	Prohibition of imprisonment for debt
Article 2 :	Freedom of movement
Article 3 :	Prohibition of expulsion of nationals
Article 4 :	Prohibition of collective expulsion of aliens

Protocol No. 6

Article 1 :	Abolition of the death penalty

Protocol No. 7

Article 1 :	Procedural safeguards relating to expulsion of aliens
Article 2 :	Right to appeal in criminal matters
Article 3 :	Compensation for wrongful conviction
Article 4 :	Right not to be tried or punished twice
Article 5 :	Equality between spouses